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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1954

No. 321

NATURAL GAS PIPELINE COMPANY OF AMERICA,
APPELLANT,

vs.

THE CORPORATION COMMISSION OF THE STATE
OF OKLAHOMA, ET AL.

FILED SEPTEMBER 1, 1954

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[fol. 1] [File endorsement omitted]

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 35731

NATURAL GAS PIPELINE COMPANY OF AMERICA, Plaintiff in Error,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA and Certain Mineral Owners in Texas County, Oklahoma, and Phillips Petroleum Company, Defendants in Error

PETITION IN ERROR—Filed September 25, 1952

Comes now Natural Gas Pipeline Company of America, hereinafter referred to as Natural, plaintiff in error, and complaining of the Corporation Commission of the State of Oklahoma, hereinafter referred to as Commission, and certain mineral owners in Texas County, Oklahoma, who were applicants before the Commission, hereinafter referred to as mineral owners and Phillips Petroleum Company, defendants in error, shows to the Court that on the 29th day of July, 1952, in Cause CD No. 3628 before the Commission, the said Commission issued and entered its certain Order No. 26096, made effective as of August 1, 1952, whereby the Commission ordered:

[fol. 2] "1. That no gas shall be produced from any well located in the Guymon-Hugoton Field of Oklahoma except at a price of not less than 9.8262¢ per thousand cubic feet if sold at the wellhead or on the lease or drilling unit from which produced, or a price equivalent to not less than 9.8262¢ per thousand cubic feet at the wellhead if sold off the lease or drilling unit or otherwise utilized. If the gas is sold during or upon conclusion of gathering without being processed for the extraction of liquid hydrocarbons, the price shall be not less than 9.8262¢ per thousand cubic feet plus the reasonable cost of gathering. If

the gas is processed for extraction of liquid hydrocarbons and sold during or at the conclusion of gathering, the price for the residue gas shall be not less than 9.8262¢ per thousand cubic feet.

"2. The minimum price specified above for the sale of residue gas after processing during or upon conclusion of gathering contemplates that said residue gas will contain at least 950 British Thermal Heating Units per cubic foot of gas saturated with water vapor at standard conditions. In the event such residue gas contains less British Thermal Heating Units than specified above, the minimum price for such gas shall be in the proportion that the British Thermal Heating Units of such gas is to 950 per cubic foot.

"3. For the purpose of this order a cubic foot of gas shall mean a volume of gas contained in one cubic foot of space measured at a pressure of 14.65 pounds per square inch absolute at a temperature of sixty degrees Fahrenheit (60° F.)."

Thereafter, and within the time allowed by law, Natural gave notice of appeal from said order, and now files herewith a complete transcript of the record of the proceedings had before the Commission and of the evidence upon which Order No. 26096 was based, including a copy of said order, which said transcript is hereto attached, marked Exhibit "A" and made a part of this petition in error.

[fol. 3] Natural, which is not a producer of natural gas in Oklahoma and purchases no natural gas at the wellhead in Oklahoma, its only activity in said state being the purchase from Panoma Corporation, herein referred to as Panoma, of substantial quantities of residue gas (one of the constituents of the natural gas) under a long term contract and the transportation of such gas (and other gas) through and from the State of Oklahoma in interstate commerce destined to points of sale in other states, alleges that there is error in said proceedings, order and judgment in this, to-wit:

1

The Commission was without power or jurisdiction, either constitutional or statutory, to make and enter the order complained of.

2

Order No. 26096 is contrary to law.

3

Order No. 26096 is contrary to the evidence, and is not sustained by substantial evidence.

4

Order No. 26096 is invalid because the evidence wholly fails to establish such a substantial change in conditions as would authorize or justify an increase in the minimum price of natural gas produced in the Guymon-Hugoton [fol. 4] Field, whether sold at the wellhead or elsewhere, from 7¢ per m.c.f. provided for in a former order of the Commission to 9.8262¢ per m.c.f.

5

Order No. 26096 operates to impose, in respect to gas produced for movement or sale in interstate commerce, an unlawful burden upon and regulation of interstate commerce, in violation of Section 8, Article I, of the Constitution of the United States.

6

Order No. 26096 operates to deprive Natural of its property and property rights without due process of law, in violation of the Fourteenth Amendment to the Constitution of the United States and of Section 7, Article II, of the Constitution of the State of Oklahoma.

7

Order No. 26096 operates to impair the obligations of a contract between Natural and Panoma Corporation, in violation of Section 10, Article I, of the Constitution of the United States, and Section 15, Article II, of the Constitution of the State of Oklahoma.

8

Order No. 26096 operates to take of Natural's property and property rights for private use, in violation of Section

23, Article II, of the Constitution of the State of Oklahoma.

[fol. 5] 9

Order No. 26096 by requiring Panoma to exact from Natural for residue gas which is purchased and transported by Natural, a natural gas company under the Natural Gas Act, as amended (15 U.S.C. 717), and thus requiring Natural to pay, the same price fixed by the order for natural gas from which no constituent has been removed, amounts to an unlawful discrimination against, regulation of and imposition of an unlawful burden upon, interstate commerce, in violation of Section 8, Article I, of the Constitution of the United States.

10

Order No. 26096 which prohibits the production of natural gas in the Guymon-Hugoton Field, except upon sale of the gas after production, or the sale of residue content of the gas after production, gathering and processing, in either case, at a price stated in the order, imposes an embargo and prohibition on the sale of such gas produced or the residue content thereof, except upon payment of an increase in price for the benefit of the producer of said gas, and thus imposes in respect to gas destined for interstate movement an unlawful regulation on interstate commerce therein, in violation of Section 8, Article I, of the Constitution of the United States.

11

Order No. 26096 violates the Fourteenth Amendment to the Constitution of the United States, in that it denies [fol. 6] to Natural equal protection of the law. This results from the fact that purchasers of gas at the wellhead acquire all the constituents of such natural gas, including extractable liquid hydrocarbons, at and for the same minimum price which Natural is required to pay for only a portion of the constituents of such natural gas after the extraction of valuable liquid hydrocarbons therefrom.

12

Order No. 26096 constitutes an unwarranted and unnecessary invasion of the property rights of Natural under the guise of the exercise of the police power without justification thereunder.

13

Order No. 26096 is arbitrary, unreasonable and void and in excess of the power and jurisdiction of the Commission insofar as it fixes a price for residue gas identical with that fixed for natural gas on the basis of an assumption inherent in the order, unsupported by any evidence showing that in no instance, now or in the future, will the operation of a processing plant yield the operator thereof a return greater than the cost of gathering and processing.

14

Order No. 26096 is beyond the constitutional and statutory jurisdiction of the Commission in that:

(a) The Commission has no jurisdiction to fix the price [fol. 7] at which natural gas shall be sold when such gas is sold at points remote from the wellhead.

(b) The Commission has no jurisdiction to fix the price at which residue or any other constituent of natural gas shall be sold at the outlet of a gasoline plant.

(c) The Commission has no jurisdiction to ascertain, determine or fix the reasonable cost of gathering and processing natural gas, or to assume that such cost will remain static.

(d) The Commission cannot indirectly fix the price which a producer who sells a constituent of its gas in interstate commerce shall receive for such constituent by a prohibition of the production of the natural gas, of which such residue gas is a constituent, unless such price be received.

15

Order No. 26096 by which the Commission attempted directly to fix the price at which such residue gas shall be sold, or indirectly to fix such price by prohibiting the production of natural gas, unless the residue therefrom be

sold at that price, constitutes a burden on interstate commerce and is, therefore, as to plaintiff in error, violative of the commerce clause of the Constitution of the United States for the following reasons:

[fol. 8] (a) Such gas is residue gas, purchased by Natural for immediate transportation, and immediately transported simultaneously with such purchase, to Natural's markets in other states.

(b) Such residue gas is dedicated and destined to such interstate movement, even before the production of the natural gas of which such residue gas is a constituent, and at all times after such production.

(c) As contemplated by the contract, there is a continuous movement of the gas through Panoma's gathering system, Natural's compressor station, Panoma's gasoline plant, Natural's meter station and Natural's pipeline system, with no break, no period of deliberation, but a steady flow, ending at Natural's markets in states other than Oklahoma.

16

Order No. 26096, insofar as it prohibits Panoma from producing gas from the dedicated acreage unless Panoma obtains 9.8262¢ per m.c.f. for the residue constituent thereof, is, as to Natural, violative of the due process clause of the Fourteenth Amendment to the Constitution of the United States in that:

(a) Under the contract between Panoma's predecessors in title and Natural, Natural acquired an equitable estate in Panoma's leases to the extent necessary to preserve its right to receive, so long as gas may be produced from the [fol. 9] leases in paying quantities, 76 million cubic feet of residue from the gasoline produced daily, at the price set forth in the contract. Natural, in order to take such residue gas and transport same to its markets, constructed, in accordance with its contract, a compressor station and pipeline facilities necessary to enable Natural to take and transport such residue gas, at an expenditure of many millions of dollars.

(b) It takes from Natural such valuable property rights for a purported public use without compensation.

(c) The property rights so taken are not, in fact, taken from public use, but for the private benefit of Panoma.

(d) The effect of such order is to require payment by Natural to Panoma of many millions of dollars in excess of the amounts payable under the terms of the contract without justification in any public purpose.

17

Order No. 26096 is invalid in that it operates for the exclusive benefit of a relatively small group of producers of natural gas and mineral and royalty owners in the State of Oklahoma rather than for the prevention of waste or the conservation of natural resources for the benefit of the public generally.

18

Order No. 26096, insofar as it prohibits the production of gas unless such gas be sold in its natural state at the price fixed in such order, or, in the event the liquefiable [fol. 10] hydrocarbons are extracted, that the residue constituent be sold at such price, is violative of the commerce clause of the Constitution of the United States insofar as the residue gas which Natural purchases from Panoma is concerned, because:

(a) The order operates to impose a burden on Natural and, eventually, on the consumers of gas in Illinois, Indiana, Wisconsin, Iowa and Nebraska, to whom gas is supplied through Natural's facilities, for the economic interest and advantage of Panoma.

(b) Since the price which Natural (a natural gas company under the jurisdiction of the Federal Power Commission) may charge its customers in other states for gas sold to them is affected by Natural's cost of service, and since such cost of service includes the cost to Natural of gas purchased by Natural, the increase of the price of gas purchased by Natural from Panoma from the contract price of 6.25¢ per m.c.f. (at 14.65 lbs. pressure base) to 9.8262¢ per m.c.f., aggregating (at the maximum delivery obligation to Panoma) $886,000 annually, will be to the prejudice and disadvantage of the consumers of gas in Illinois, Indiana, Wisconsin, Iowa and Nebraska.

Wherefore, Natural prays that said Order No. 26096 be reversed, set aside and held for naught, and that Natural be restored to all the rights and privileges it has lost by [fols. 11-48] the rendition and entry of such order, and that it have such other and further relief to which it is entitled.

Natural Gas Pipeline Company of America by Coleman Hayes, Warren T. Spies, D. H. Culton, its attorneys by Coleman Hayes.

[fols. 49-50] BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 3628

In the Matter of the Application of CERTAIN MINERAL OWNERS IN TEXAS COUNTY, OKLAHOMA, for An Order Determining the Minimum Price at Which Gas Produced From the Guymon-Hugoton Field May Be First Purchased or Sold

Transcript of Testimony and Proceedings for Appeal

September 25, 1952.

Filed and withdrawn for purpose of filing in Supreme Court.

Tom McMurray.

[fol. 51] BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 3628

In the Matter of the Application of CERTAIN MINERAL OWNERS IN TEXAS COUNTY, OKLAHOMA, for An Order Determining the Minimum Price at Which Gas Produced From the Guymon-Hugoton Field May Be First Purchased or Sold

APPLICATION—Filed January 3, 1952

Come now applicants and allege:

1. That they are the individuals named on Schedule "A" attached hereto, and that each of them own mineral interests in the Guymon-Hugoton gas field located in Texas County, Oklahoma.

2. That negotiated sales of gas from that field have recently been made at a price which is equal to not less than 9.8262 cents at the wellhead for each thousand cubic feet of gas produced, measured at a pressure of 14.65 pounds per square inch, and some of the applicants are receiving that price for a portion of their royalty gas.

3. That the intrinsic value of 1000 cubic feet of gas at the wellhead, measured at a pressure of 14.65 pounds per square inch, for fuel, or any other use for natural gas is not less than ten cents.

4. That under a prior order of this Commission some of [fol. 52] the gas produced from the field is marketed at a wellhead price of 7 cents per thousand cubic feet; that the payment of a higher price therefor will prevent waste and will result in the use of gas which otherwise would not be utilized, and in general, will prevent, or tend to prevent the physical waste thereof.

5. That the sale of this exhaustable natural resource at a price of less than 9.8262 cents per thousand cubic feet, measured at the wellhead at a pressure of 14.65 pounds per square inch causes economic loss both to the owners thereof and to the State of Oklahoma; that an order should be entered which will prevent, or tend to prevent, such loss.

6. That the payment by some purchasers of the price

of 9.8262 cents per 1000 cubic feet measured at the wellhead, at a pressure of 14.65 pounds per square inch for gas produced from some of the tracts in the field, while the gas from other tracts is being purchased at a lesser price, results in discrimination between the owners thereof; that discrimination is prohibited by the statutes of the State of Oklahoma.

7. That in proceedings to enforce the prior order of this Commission fixing the price for gas, it has been asserted that such order is vague and uncertain in fixing the manner in which the price paid for gas in some cases should be [fol. 53] determined; that the order entered herein should define the sale of gas in terms which will, so far as possible, prevent controversies between sellers and purchasers as to the application of the minimum price order, and in terms which will clearly establish the right and duty of each producer to receive, and the obligation of each purchaser to pay, the established wellhead price for gas without deductions for the use or earnings of facilities and plants for handling or working such gas after it leaves the wellhead; that said order should be stated in terms which will clearly prevent discrimination in the amount received for gas between owners and producers of gas who, in addition to wells, own pipe lines and other facilities, and owners and producers of gas who have gas wells only.

Wherefore, applicants pray:

1. That a day be assigned for hearing this application;
2. That notice thereof be given as required by law;
3. That upon said hearing, that an order be entered fixing the minimum price for the sale, purchase and acquisition of gas produced from the Guymon-Hugoton field, couched in language which will clearly prevent discrimination between the several owners and producers of gas from [fols. 54-91] said common source of supply.

Dated 2nd day of January, 1952.

(S.) Vincent Dale, Robinson, Shipp, Robertson and Barnes, By (S.) T. Murray Robinson, Attorneys for Applicants.

[fols. 92-138] BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

CD No. 3628.

In the Matter of the Application of CERTAIN MINERAL OWNERS IN TEXAS COUNTY, OKLAHOMA, for An Order Determining the Minimum Price at Which Gas Produced From the Guymon-Hugoton Field May Be First Purchased or Sold

Transcript of Testimony

APPEARANCES

Rizley, Tyron and Sweet for Panhandle Eastern Pipe Line Co., E. H. Lange for Panhandle Eastern Pipe Line Co., C. H. Hinton for Panhandle Eastern Pipe Line Co. R. M. Williams for Phillips Petroleum Company; Kenneth Heady for Phillips Petroleum Company; Cecil C. Hamilton for Phillips Petroleum Company.

Mark Adams for Northern Natural Gas Company.

C. C. Kuhne for Natural Gas Pipeline Company; Coleman Hayes for Natural Gas Pipeline Company; D. H. Culton for Natural Gas Pipeline Company; Warren T. Spies for Natural Gas Pipeline Company; B. M. Britain for Natural Gas Pipeline Company.

T. Murray Robinson for Applicants; Dale & Dale for Applicants.

L. T. Cramer for Office of Price Stabilization.

Joe Rolston for Cities Service Gas Company; R. R. McCracken for Cities Service Gas Company.

Floyd Green, Conservation Attorney, for the Corporation Commission; Ferrill Rogers, Assistant Conservation Attorney, for the Corporation Commission.

[fol. 139] THOMAS C. BAILEY, called as a witness, being first duly sworn, testified as follows:

Examination.

By Mr. Robinson:

Q. What is your name?
A. Thomas C. Bailey.
Q. Where do you live?
A. Oklahoma City.
Q. What's your business?
A. Petroleum Engineer and Consultant.
Q. What professional schools did you attend, Tom?
A. I went to Colorado University and Oklahoma University. Graduated from Oklahoma University.
Q. What sort of a degree did you have from that school?
A. B.S. Degree in Petroleum Engineering.
Q. What year did you obtain your degree?
A. In June 1942.
Q. What experiences have you had in the practice of Petroleum Engineering since that time?
A. I have been employed by several different employers.
Q. Did you ever work for any conservation agencies?
A. Yes, sir.
Q. Which conservation agencies?
A. I worked for both the Arkansas Oil and Gas Commis-
[fol. 140] sion and the Oklahoma Corporation Commission.
Q. And you are now a general consultant, is that right?
A. Yes, sir.
Q. General practice?
A. Yes, sir.
Q. In times past did you ever make a study of the comparative values of various products which are used for heating?
A. Yes, sir.
Q. About what year did you first commence the study of comparative values of various fuels which you use for heating?
A. Approximately three years ago.
Q. For what purpose did you commence that study, Tom?

A. To show the comparative values between source cost between different fuels.

Q. Did you, as a result of those studies, did that finally result in a publication of an article on that subject?

A. Yes, sir.

Q. Was it in a trade journal of some kind?

A. The Oil and Gas Journal.

Q. And in what issue of the Oil and Gas Journal did that article appear?

A. I don't remember.

Q. You don't recall?

[fol. 141] A. I don't recall the exact issue, no.

Q. Tom, you have been asked by me, representing the Applicants in this case, to make a further study of it?

A. Yes, sir.

Q. What basic sources of information did you use, Tom, in accumulating the data in respect to this problem?

A. I obtained the source cost information from several different sources, the best sources available I could find.

Q. Just what kind of sources of information? What did you do? Where did you go to get your dope?

A. The price of crude oil and the refined products was taken from the published prices of the Oil and Gas Journal. The price on coal was taken from the booklet put out by Mineral Industry Surveys of the United States Department of Interior, Bureau of Mines, Oscar L. Champman, Secretary.

Q. What other sources of information did you use?

A. The information on the cost of natural gas and the yearly average cost of marketed gas, marketed production, of natural gas was taken from the Mineral Year Books throughout the years.

Q. What did you do to bring all this information down to date; what have you done recently towards getting this information current?

[fol. 142] A. I checked it all over again, the old figures, and got the new-up to-date figures for the past three years, as well as prices for those years.

Q. Now, in front of you there is a chart which has been identified as Exhibit No. 11. Who prepared that?

A. I did.

Q. And what is that exhibit depicted to . ow? If you would, now, Tom, go to the board there and speak loud enough so the reporter can hear you. That is a duplicate copy of Exhibit 11 there on the board, is it not?

A. Yes, sir, it's an enlarged photostat of the same exhibit.

Q. All right, now, what is Exhibit No. 11, please?

A. It is a comparative fuel source costs for a million B.T.U. energy content.

Q. Why do you use a million B.T.U. energy content as a common denominator?

A. Most everybody that figures large volumes of fuel discusses it in B.T.U. values, millions of B.T.U.'s.

Q. B.T.U. has the same heating value, whether it's in coal or oil or what, does it not?

A. That's right.

Q. Then B.T.U. is the unit of heating value, isn't it?

A. Yes, sir.

[fol. 143] Q. All right, now, what is the scale which is on the lefthand side of that chart?

A. The scale that shows the unity cost at source, cents per million B.T.U.

Q. Now, what are the various figures which are on that chart as you come across?

A. I arranged these here in order of relative desirability, in my opinion the relative desirability. Coal being the least desirable to industry, residual next, crude oil next, butane next, fuel oil next, kerosene next, gasoline next, and natural gas last.

Q. Tom, what is the source cost there of natural gas?

A. Source cost is 7 cents per mcf, a thousand cubic feet which calculates out to be 6.67 cents per million B.T.U.'s.

Q. That is the average source cost of natural gas, is that right?

A. Yes, sir.

Q. If the average source cost of natural gas is 10 cents per thousand cubic feet, how would it compare in cost to other fuels shown on that graph?

A. It would be less.

Q. What would the cost of gas have to be before it

would be equal at its source to any comparative or competitive fuel?

[fol. 144] A. Coal is 18.4 cents per million B.T.U.'s.

Q. At the source?

A. That's right.

Q. Before you would be purchasing a B.T.U. at the same price as gas as you would be purchasing it from coal, is that right?

A. Yes, sir.

Q. Now, these figures relate to what period of time, Tom?

A. These figures are from January 2, 1952, Mid-Continent costs on crude oil and refined products, and January 2, 1952, United States costs on coal and natural gas.

Q. We offer in evidence—no, wait a minute. Are those figures from which that graph is prepared, shown on any other exhibits?

A. Yes, sir, they are calculated here on Table I.

Q. Then that's marked Exhibit what, the one you are pointing at?

A. Sixteen.

Q. Now, you did prepare Exhibit 16, too?

A. Yes, sir.

Q. Which is the Table of figures from which you have reduced to graphic form in Exhibit No. 1?

A. Yes, sir.

[fol. 145] Q. Now, Tom, is there any conversion figure, or did you prepare anything to indicate the manner in which a conversion from cost of one fuel to its equivalent in value of another fuel, is there a graph of that kind available?

A. Yes, sir.

Q. Now, which one of these exhibits is that, please?

A. Exhibit No. 13.

Q. Now, Tom, for what purpose did you prepare Exhibit 13?

A. Exhibit 13 is a conversion chart for converting fuel costs to energy costs.

Q. Now, what's shown on the lefthand side of the chart?

A. The lefthand side is your fuel cost in dollars per forty-two gallon barrel and coal cost, dollars per ton.

Q. Now, what is the graph across the top of the exhibit?

A. Fuel cost, cents per gallon.

Q. All right, now what's the scale along the bottom?

A. The bottom line is energy cost, cents per million B.T.U. It's also the eqquivalent energy value of one thousand B.T.U. per cubic foot of natural gas, cents per mcf.

Q. Now, what is the conversion line?

A. The conversion line is to convert cents per gallon to dollars per barrel. Lots of times you don't have the fuel listed in dollars, per barrel, and you use the cents per [fol. 146] gallon.

Q. All right, now what are the other lines which run across that graph on which you mark coal and crude oil, and so on?

A. One is coal, one is residual, one is crude oil, one is kerosene, one gasoline and one butane.

Mr. Green: Murray, for the purpose of the record, may I ask one question?

Mr. Robinson: Yes, sir.

Mr. Green: What do you mean by B.T.U., is that British Therminal Unit?

Mr. Bailey: Yes, sir, that's the amount required to raise a pound of water one degree of Fahrenheit.

Mr. Green: That's what you mean by B.T.U.?

Mr. Bailey: Yes, sir.

Mr. Robinson: It's used as a measure of heat energy, is it not?

Mr. Bailey: It is equivalent to about 778 foot pounds. In other words, it's enough energy to lift 778 pounds up one foot.

Q. Now, Tom, just for the purpose of illustration, you have indicated on that graph the manner in which you compared fuels in cost, have you not?

A. Yes, sir. Taking one example here of crude oil, 35 [fol. 147] degree crude oil is $2.55 per barrel. Using this scale on your left, you go up to the point 2.55, and come across horizontally to the right to the intersection of the line marked crude oil, then move vertically down to the base line which reads 43.7 cents.

Q. Does that mean B.T.U.?

A. Million B.T.U. as a cost of energy in the form of crude oil at $2.55 per barrel.

Q. It would be the equivalent of paying 43 cents per thousand cubic feet?

A. Yes.

Q. For gas?

A. Yes, 43.7 cents, yes, sir.

Q. Having a thousand B.T.U. energy equivalent?

A. Yes, sir.

Q. You've got another line up there that shows about kerosene, haven't you,-on that conversion line?

A. Yes, sir. Another one here on kerosene at 9.25 cents per gallon. The scale at the top is used for fuel cost at per gallon that shows 9.25 on it, convert it vertically down until you intersect the conversion line and at that point of intersection go horizontally to your right until you intersect the line at kerosene, move vertically down to the base [fol. 148] line which shows the particular price of fuel at cost of 69 cents per million B.T.U. to be the equivalent of burning gas it would cost you 69 cents per thousand cubic feet.

Q. In other words, if you are paying 9 cents or little better, per gallon for——

A. Nine and a quarter cents.

Q. Nine and a quarter cents for kerosene, you are buying heat which would cost you 93 cents——

A. Sixty-nine cents.

Q. Sixty-nine cents in gas?

A. Yes, sir.

Q. You would pay 69 cents for a thousand cubic feet of gas?

A. Yes, sir.

Q. Having a thousand B.T.U. energy content?

A. Yes, sir.

Q. And buy just as much heat as you could by paying nine cents per gallon——

A. Yes.

Q. Now, Tom, what would be the price—say you would pay 12 cents for kerosene, how much gas could you afford

to buy? How much could you afford to pay for gas rather than pay 12 cents for kerosene?

A. You would pay 87 cents, approximately.

[fol. 149] Q. Do you happen to know what the retail value of kerosene is right now?

A. No, I do not. Source cost is all I have.

Q. Now, Tom, have you sort of followed these comparative costs of fuel over a period of years?

A. Yes, sir.

Q. Have you shown that on a graph form?

A. Yes, on Exhibit 12.

Q. And have you the accumulated supporting data from which you drafted Exhibit 12 as an exhibit?

A. Yes, listed as Exhibit 17.

Q. What is the accumulative data exhibit there?

A. Exhibit 17.

Q. That's Exhibit 17?

A. Yes, sir.

Q. Did you get the data which is shown on Exhibit 17 from the same sources you got your other information you have been talking about?

A. It's the same information I plotted on Figure No. 1. Figure No. 1 represents the last point on these lines.

Q. I know, but where did you get all the basic information which you have accumulated on Exhibit 17?

A. The crude oil and refined products prices comes from [fol. 150] the Oil and Gas Journal. The coal price is the United States average coal price for a year.

Q. Taken from where?

A. Taken from the minerals——

Q. Well, from the same——

A. The same average I mentioned a while ago.

Q. The same source you were talking about a while ago?

A. Yes. Mineral Industry Surveys.

Q. All right.

A. The price of natural gas was taken from the Mineral Year Book.

Q. Now, the graph then which you have up there shown as Exhibit No. 12, that shows the comparative cost of those fuels figures in millions of B.T.U., does it not?

A. Yes, sir, that's cost per million B.T.U.'s for the year.

Q. And if you want to get a million B.T.U. of heat or equivalent of million B.T.U.'s of heat, then over a period of time you could look on that chart and it would give you what it would cost at its source during all that period of time, whether it be gasoline, or kerosene, or coal, or gas, is that right?

A. Yes, sir.

Q. Over there on the left hand side, it starts out, doesn't [fol. 151] it, about 1938?

A. 1939.

Q. 1939?

A. Yes, sir.

Q. And at that time you had variations in costs of the various fuels. Which is the lowest in cost?

A. Natural gas.

Q. Was it any lower at that point much than a couple of other kinds of fuels?

A. It was 4.67 cents per million B.T.U. natural gas in 1939. Coal during the same year was 7.01 cents per million B.T.U.

Q. And that was the next comparative fuel price, was it?

A. Yes, sir.

Q. Fuel in price?

A. Yes, sir.

Q. That was the lowest price fuel other than gas at that time?

A. That's right.

Q. Now, Tom, do you recall about when we had price controls?

A. That's shown on this graph here. It's figured in here from 1941 into 1946, represents the period of Government price controls, so you can see the trends are relatively comparable——

Q. There wasn't much change in those fuels. Oil, for example, sold at the same price, didn't it, all during that [fol. 152] period of time?

A. It sold at the top price allowed.

Q. But that's a flat line across there?

A. Yes, sir.

Q. Then when the controls were lifted in '45 what, in general, happened to the price of all the other kinds of fuel?

A. In '46 when the controls were lifted fuels here it started to jump up and increase every two or three months, and it more than doubled in value, and the same thing happened to refined products.

Q. It doesn't appear to be true of natural gas; have you reached any conclusion as to why natural gas didn't jump up like the others?

A. Because I don't think it's on the free competitive market like the other fuels.

Q. You don't think it is on a free competitive market?

A. That's right.

Q. If it had been on a free competitive market what is your conclusion as regards the study that you made? What would have happened to the price of gas?

A. Price controls. In the first place, it would have been up here higher than coal at 30 cents and it would have been [fol. 153] around 12 or 15 cents and it would have been frozen during the war around 15 cents and when price controls were removed it would have got up around 30 cents per million cubic feet.

Q. Now, you have another exhibit there, No. 15. What's 15?

A. That's basic energy equivalents, natural gas, crude oil, and coal. It's based on specific gravities, B.T.U. per pound energy content and source costs listed for natural gas, crude oil and coal in Table I.

Q. In other words, that is a table which give you the equivalent so you can reduce the costs to B.T.U.?

A. Yes, comparing one with another.

Q. Tom, have you made any comparison as to the amount of energy which each of these various types of fuels furnishes?

A. Yes, for 1950. The year 1950 is the last data available on it.

Q. That is, for the 1950 you have made a comparison of the total amount of energy supplied by each of these products we have been talking about?

A. Yes, sir. That is, not each of the products but basic products, which are natural gas, crude oil and coal.

Q. All right, put that one up there, Tom. This will be Exhibit—what are we about to talk about now?

A. Fourteen.

[fol. 154] Q. Now, what does Exhibit 14 design to show?

A. Designed to show the portion of the total of mineral energy supplied and produced in the United States in 1950.

Q. And used as fuel?

A. Yes, sir, and produced from each of one of these four products, natural gas, petroleum, anthracite coal, bituminous coal,——

Q. Now, what is the larger circle shown?

A. The larger circle shows the amount of energy supplied.

Q. That is, the total energy is represented by the entirety of the circle, is that right?

A. Yes, sir.

Q. And the amount which each of these various products supplies in respect to that total energy is represented by that portion of the circle which it supplies?

A. Yes, sir.

Q. And then there's a smaller inserted circle up there on the left, what is shown by that?

A. That shows the actual dollar income at the source.

Q. So that natural gas supplies twenty percent of the energy and how much is realized in dollars for the supplying of that twenty percent of the energy?

A. It supplied 20.84 percent of the energy in 1950 and [fol. 155] received 5.16 percent of the total dollar income for all the energies at their source.

Q. Then, although it supplied better than twenty percent of the energy they only get about five percent of the income for doing it?

A. Yes, sir.

Q. This will be Exhibit 18. Now, Tom, you have before you Exhibit No. 18?

A. Yes, sir.

Q. What computation is shown on that exhibit?

A. It shows the wholesale cost per million B.T.U. at Chicago, using Mid-Continent source costs and Oklahoma to Chicago transportation rates.

Q. Now, for example, in coal, what sort of transportation rate would you use?

A. The coal listed here is an exception, it's for 12,000

B.T.U. per pound, Central Illinois, bituminous coal, average mine cost, $4.625 per ton, railroad shipping charges from Central Illinois to Chicago, $3.24 per ton.

Q. Now, what is the reason why you made an exception for coal, to get the source as close as you could to Chicago?

A. Yes, sir. Oklahoma coal, very little of it is shipped to Chicago.

[fol. 156] Q. So, the comparison here is between Chicago, Illinois, coal in Chicago and Oklahoma gas in Chicago?

A. Yes, sir. Central Illinois coal in Chicago and Oklahoma gas in Chicago.

Q. Now, I observe you have transportation cost for natural gas at 6.70 cents?

A. Yes, sir.

Q. That's the transportation cost of a thousand cubic feet of gas?

A. No, that's the transportation cost per a million B.T.U.'s.

Q. A million B.T.U.'s?

A. And gas energy.

Q. All right. Now, where did you get the 6.70 cents?

A. That's the average transportation rate received by Natural Gas Pipeline Company of America in 1950 on natural gas transported and sold to other gas utilities.

Q. Now, why did you take the natural gas utilities, why did you take the natural gas rate?

A. Because they transport gas from Texas County—buy gas in Texas County and transport it to Joliet, Illinois, a suburb of Chicago.

Q. Where did you get the 6.70 cents then, as being the cost of such transportation?

[fol. 157] A. I took the total number of dollars paid by Natural Gas Pipeline Company and divided it by the total number of thousand per cubic feet of gas purchased by this company, in the field, or wherever they purchased it, or where it was, and corrected this cost to compensate for—that give me the cost per mcf of gas which was slightly higher than this 6.70 cents, and I divided that by 1.025 to correct for there being one million, twenty-five thousand B.T.U.'s in a thousand cubic feet of gas, to get the cost per million B.T.U.; likewise, I took the money received by Nat-

ural Gas Pipeline Company from other gas utilities, and divided it by the number of thousands of cubic feet sold to other gas utilities, which gave me the price that they received for this gas per mcf.

Q. In Chicago?

A. In Joliet, Illinois. Then, I divided that by 1.025 to get the actual price that they received per million B.T.U.'s, then I took and subtracted the cost per million B.T.U.'s from the price received per million B.T.U.'s to get the cost of transportation rate that they received in transporting this gas.

Q. In other words, you take the field price and then the price in Chicago?

[fol. 158] A. Yes.

Q. Where they sold it wholesale?

A. Yes.

Q. And you just deducted one price from the other and the balance of it would have to represent what is cost them to get the gas to Chicago?

A. Yes.

Q. Now, where did you get these figures?

A. From statistics of Natural Gas Companies for 1950 put out by the Federal Power Commission.

Q. In other words, the figures which they had on file with the Federal Power Commission as to how much gas they had sold in Chicago——

A. I might make a correction on that. All of this gas is not actually sold in Chicago or Joliet, Illinois, but it is sold at points along the road and that's the average price they received for it.

Q. In other words, after leaving Texas County Field, it was the average price as it went on towards Chicago?

A. Whether they delivered it at Chicago or some point along the way, I don't know, but anyhow that's the average transportation rate they received.

A. All right. Now, on the other fuels you took the freight [fol. 159] rates on the fuels, or the pipe line—how did you determine say, for example, kerosene. I observe you got two figures there on kerosene.

A. Kerosene is represented by two figures. One of them is for pipe line transportation and the other one is for rail.

Q. Why did you use both figures?

A. Because so many products use pipe lines throughout the area and part of the products are transported by pipe line rather than by rail.

Q. Goes both ways, in other words?

A. Yes, sir.

Q. Now, Exhibit 19; what's Exhibit No. 19, Tom?

A. It's the same comparative Exhibit to No. 18, except that it gives you the wholesale cost per million B.T.U. for various fuels in Omaha, Nebraska.

Q. Same sort of computation in respect to Omaha, Nebraska, is that right?

A. Yes, sir; using January 2, 1952, Mid-Continent source costs and Oklahoma to Omaha transportation rates—by the way, the coal listed on this one is for a 12,850 B.T.U. per pound, Henryetta, Oklahoma, bituminous coal, average mine cost, $6.75 per ton, railroad shipping charges from Henryetta, Oklahoma, to Omaha, $4.83 per ton.

[fol. 160] Q. Well, let's go back to Exhibit 18, and do this as we go along. Now, what is the comparison between the source costs of fuel plus transportation costs in Chicago on a wholesale basis and the source costs of the next cheapest fuel?

A. Natural gas is the lowest price. It's 16.3 cents per million B.T.U. That's for 0.71376 percent gravity, 1,025 B.T.U. per cubic foot natural gas produced in Texas County, Oklahoma, at a wellhead cost of 9.8262 cents per mcf.

Q. Now, in there you have the source cost of natural gas figured at 9.59 cents, is that right?

A. That's per cost per million B.T.U., which is the same as 9.8262 cents per mcf.

Q. In other words, you figured this fuel cost on this gas at the price which this——

A. This application sets out.

Q. Which the application sets out, as being a price which has been paid in the field?

A. Yes, sir.

Q. So that if you bought gas in the Guymon-Hugoton Field and it can be transported for this differential to Chicago it could be sold in Chicago, bought on that basis, for 16.3 cents——

A. Yes, sir.

[fol. 161] Q. In comparison with 32.8 cents for the closest available source of coal?

A. That's right.

Q. Now, what about this Omaha comparison?

A. The Omaha comparison shows this same gas, same price gas, can be delivered in Omaha at 18.8 cents per million B.T.U. as compared with coal costs of 45.1 cents per million B.T.U.'s.

Mr. Green: You mean million or thousand?

A. Million B.T.U.'s. Everything I have is in million B.T.U.'s.

Q. Now, in all the other types of fuels the comparison is even more pronounced, is that right?

A. Yes, those are the two lowest priced fuels.

Q. Now, what about the comparative fuel prices in Kansas City?

A. In Kansas City, using the same gas and the same Henryetta, Oklahoma, coal, the cost of natural gas, wholesale cost per million B.T.U. is 16.7 cents compared with a wholesale cost of coal of 40.7 cents.

Q. Now, which one of the gas pipe lines, if any, did you use in arriving at this figure of 7.11 cents which is the basic transportation cost?

A. That's the average transportation rate received by [fol. 162] Cities Service Gas Company in 1950 on natural gas transportation, and sold to other gas utilities.

Q. And you arrived at that rate by taking what they had paid for gas and what they sold gas for on wholesale basis in Kansas City?

A. That's right, Kansas City and other points, all gas utilities, of which Kansas City was the furtherest one.

Q. All right. Now, then, what does Exhibit 21 show?

A. Exhibit 21 is the analysis of energy content and source cost of 1950 mineral fuel production in the United States as reflected on Exhibit No. 14.

Q. This is the supporting data for your Graph No. 14?

A. Yes, that's right.

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[fol. 163] By Mr. Robinson:

Q. Now, based—this analysis, Tom, what would be your conclusion as to whether or not as a use for fuel that gas is worth at least 9.862 cents per thousand cubic feet measured at a pressure base of 14.65 at the wellhead in the Guymon-Hugoton Field. 9.8262, I'll get that price right in a minute.

A. I think the gas is worth considerably more than that.

Q. In other words, it is worth even more than that?

A. Yes, sir.

Q. Assuming that some of the purchasers are paying that price at the wellhead in the Guymon-Hugoton Field, are [fol. 164] they paying any more than the gas is worth in comparison with other fuels?

A. They are not paying as much.

Q. Would any increase in the price of gas tend to conserve gas as a commodity?

* * * * * * *

A. I think that any increase in price would tend toward [fol. 165] preventing waste, also would tend to conserve our gas.

Q. Just almost a mathematical rule that the more you get for it the less you will waste, isn't it, Tom?

A. That's right.

Q. Is there any physical waste of gas that you know about going on in that field?

* * * * * * *

A. There is a small amount.

Q. Of gas being actually wasted, is that right?

A. Yes, sir, blown into the air.

Q. What is the reason for the operators blowing gas in the air?

A. They blow the wells into the air to clean fluid of the well bores.

Q. You are an engineer, I understand; does your engineering experience have to do with the manner in which gas wells can, or ought to be produced?

A. Yes, sir.

Q. Can some of that waste be prevented by different methods of operation?

A. Part of it.

[fol. 166] Q. Is the waste we are talking about, is it in large quantities or more or less small quantities, comparatively, Tom?

A. Small quantities.

Q. We are not talking now about great big quantities of waste of gas, but there is some waste occurring, is that not right?

A. That's right.

Q. Some preventable waste?

A. Yes, sir, partly.

Q. And could that waste be prevented by the expenditure, by a little more expensive methods in operation?

A. Part of it could be.

Q. Now what, in your opinion, would an increase in price of gas, what effect would it have on the correlative rights of the owners of gas in that common source of supply?

* * * * * * *

[fol. 167] Mr. Robinson: All right. What effect would it have on the correlative rights, Tom, of the owners of gas in this common source of supply?

A. The higher price of gas the more acreage would be developed and some royalty or mineral owners along the edge of the field will derive income from production who otherwise wouldn't obtain it if it wasn't developed, if their acreage wasn't developed.

Q. In other words, if you raise the price of gas why there will be wells drilled out on the fringe that would not be drilled at a cheaper price?

A. Yes, the higher price will make a smaller well commercial.

Q. Therefore, the edge wells, the edge of the field will get better grade of development the higher the price?

A. They will develop the edges more, the higher price, [fol. 168] yes, sir.

Q. Now, you understand there is a single reservoir out there, don't you?

A. Yes, sir.

Q. And if these edge wells are not drilled then the owners of the existing wells would simply, eventually, capture the

gas, or some quantities of it, through those wells, wouldn't they?

A. Part of their gas would migrate into the area that was drilled and be produced by the wells that were drilled.

Q. Do you have to have that higher price while the set-up is there for the purpose of marketing gas before it would do any good to drill these edge wells?

A. Well, if you waited until after the rest of the field was produced, and abandoned, you wouldn't have very much of a reserve of gas to go into and redrill.

Q. You wouldn't have very much gas reserve to entice purchasers in there with, would you?

A. No, that's right. It wouldn't amount to very much.

Mr. Robinson: You may cross examine.

Examination.

By Mr. Culton:

Q. Mr. Bailey, your information has been gathered [fol. 169] largely from reading certain documents, has it not?

A. It's the best type of information that I know of that is available.

Mr. Culton: Mr. Reporter, would you read the question. I don't think the witness understood it.

(Question read by the Reporter.)

A. Not largely, partly.

Q. Well, aside from reading the Mineral Year Book and the Report of Bureau of Mines, what did you do to develop the information that you have reflected on these exhibits? And where did you go?

A. I got the base prices and unit costs and converted them into costs per million B.T.U.'s, so that one could be compared to the other.

Q. You got these basic costs from certain documents which you have referred to, didn't you?

A. I got the price on crude oil and refined products from the Oil and Gas Journal, the U. S. cost on coal from Mineral Industry Surveys, put out by the United States Department

of Interior, Bureau of Mines, and I got the price on gas from The Minerals Year Book.

Q. For what year?

A. For all the years up to 1949 and from the Mineral In-
[fol. 170] dustry Surveys from the United States Department of Interior, Bureau of Mines, for the year 1950. All other years on gas I got from the Minerals Year Book.

* * * * * * *

Q. Referring to Exhibit No. 11, which is your figure No. 1, now your first graph there is of coal. Now, what grade of coal is that, and at what location?

A. That's the energy mined cost.

Q. Now, what grade of coal?

[fol. 171] A. Mine run, from the mine.

Q. Was that anthracite or bituminous?

A. Bituminous not anthracite.

Q. Does it include lignite?

A. Yes, sir.

Q. Where did you obtain the price for lignite, at what point of production? Did you get the price of Texas lignite?

* * * * * * *

A. I didn't get the price of Texas lignite but I got the price of bituminous coal and lignite combined, which this is the composite price on for the United States as a whole.

Q. Well, do you have the range between what high and low it went?

A. I just had the average price during the year.

Q. The answer is no, to my question, then?

A. This here booklet might give it, but I didn't get it.

Q. But you didn't, and you don't know what the price on coal ranged, then, from one area to another and from one [fol. 172] time of the year to another? The range of it, from high to low?

* * * * * * *

A. No, sir.

Q. You are unable to tell us the range?

A. I don't have the details broken into any more than the yearly average.

Q. Now, you refer to residual in your second column. Just what does that consist of?

A. Residual, fuel oil No. 6, 12 degree API gravity, residue from the refining of petroleum.

Q. At what location?

A. That's the Mid-Continent.

Q. Mid-Continent price?

A. Yes.

[fol. 173] Q. Is the same thing true as to crude oil?

A. Yes, sir, its 35 gravity, though.

Q. 35 gravity, and you have nothing on the range of the gravity?

A. There has been a constant price on crude oil, and it hasn't varied for the last four years.

Q. It varies in places, though, does it not?

A. It hasn't——

Q. In the United States?

A. It might increase upwards. I haven't heard of it dropping.

Q. Well, you do know that there is a range in price in different places in the United States on crude oil?

A. I saw a figure the other day that gave the average price of two dollars and fifty-two cents.

Q. That's the only answer you can make to my question?

A. It varies a little in different places.

Q. That's what I was asking.

A. Pennsylvania crude is higher than Mid-Continent crude because it has better qualities for lubricating.

Q. Now, how about butane, that also varies during the year, does it not, very greatly?

A. That Butane price is the price received by the West [fol. 174] Edmond Hunton Lime Unit.

Q. When?

A. At the last price they had available. December, I think.

Q. Well, how was the range during the year 1951?

A. It varied.

Q. At least a fifty percent range on that, isn't there?

A. It's a new fuel. It has a big range.

Q. Well now, that has a range of at least fifty percent, doesn't it, in price, during the year?

A. It might range down to 25 percent below that figure.

Q. Well, can you give us the information as to what it was last August?

A. I could get it.

Q. You don't have it available?

A. No, sir.

Q. I notice that I don't see anything about gasoline except a column gasoline without reference to grade. That's ten pound gasoline, isn't it?

A. I explained how I got those prices.

Q. Well, I'm just asking you what kind of fuel you are talking about.

A. Gasoline is sixty gravity, sixty means API, and has a heating value of twenty pounds two hundred and fifty [fol. 175] B.T.U.'s per pound, and hundred twenty-four thousand eight hundred B.T.U.'s per gallon. Cost, at this particular time 10.313 cents per gallon, calculated at cost per million B.T.U.'s.

Q. Well, you do know that 26 pound gasoline is extracted from natural gas, don't you?

A. Yes, sir.

Q. And that that is a considerable industry in this state and also the adjoining producing states?

A. It's raw gasoline, yes, sir.

Q. And that has market prices, does it not?

A. Considerably lower than the refined product. It has to be refined.

* * * * * * *

Q. You do know there has been a great range in the price of natural gasoline, 26 pound gasoline, for example, over the last twelve months, don't you?

A. I don't know how great it is, but I know that it changes.

[fol. 176] Q. Well, don't you know that there's at least 25 percent difference between the summer price and the winter price on it?

A. I would have to check on it to tell you.

Q. Now, you did not use in your chart this 26 pound gasoline, did you, or any other natural gasoline?

A. I have right here what I used in fixing that chart.

Q. Well, answer my question. My question is, did you, in any of your computations use natural gasoline which is extracted from natural gas as a product at gasoline plants?

A. No, sir.

Q. Now, this natural gas, what quality of natural gas did you use?

A. One thousand fifty B.T.U. per cubic foot, 0.625 gravity gas, which has a heating value of 22,073 B.T.U.'s per pound which is equivalent to 1,050 B.T.U.'s per cubic foot.

Q. Now, you got that figure on natural gas, from what course?

A. That's an estimated in average, average in United States.

Q. Where did you get the average?

A. From my own experience in gas fields.

Q. You didn't get that from any of the mineral books, or anything like that?

[fol. 177] A. Their estimate is 1,075, I believe, per cubic foot.

Q. What I'm trying to get at is, are you using an average gas over the United States taken from some source or your own judgment?

A. Taken from all the sources.

Q. Do you have any source material with you from which you obtained the cost of the natural gas used by you? If so, will you present the data that you used?

A. The cost of natural gas?

Q. Yes.

A. I don't have any Mineral Year Books.

Q. You show here 7.0 cents per mcf?

A. Yes, sir.

Q. And from what book did you get that?

A. I'll tell you how I got it. From the Mineral Year Books I got the natural gas price by years, down through the years, up to this point right here, 1951-50, the last available price. I started on this graph right here, through the years, up to this point to '50. That was the 1950 price. From '51 on, here, is estimated, my estimation of the trend of gas since that time.

Q. Where?

A. In the United States.

[fol. 178] Q. Did you go to Texas in making that estimate?

A. No, sir.

Q. Did you go to the Appalachian area in making that estimate?

A. No, sir.

Q. Did you have any information as to the conditions in Texas, or conditions in the Appalachian area which influenced your graph?

* * * * * * *

A. The only thing that might have influenced it was the fact that Texas Panhandle gas price has been increased, too, and the commencement of deliveries to large natural gas pipe lines that have commenced taking gas during the past year.

Q. Did you take into consideration the fact that in the [fol. 179] Gulf Coast area a considerable amount of gas is sold at prices substantially in excess of seven cents?

A. I'm aware of the fact that gas is sold considerably in excess of seven cents. In fact, it's double, or almost more than double seven cents.

Q. You do know that two pipe lines have recently started transporting gas out of the Gulf Coast area, within the last twelve months, do you not?

A. Yes.

Q. And you do know that a considerable quantity of gas is purchased down there at prices higher than this average that you show?

A. Yes, sir.

Q. Now, you use as a basis some figures which I understand you took from the Year Book, as shown on the first column, second column rather it is, on Exhibit 17, is that correct?

A. All except the figure for 1950 which was taken from this leaflet that's put out by the Mineral Industry Surveys, United States Department of Interior, Bureau of Mines, which states the total value at the well of marketed production is $408,776,000.00, and the total marketed production with 6,282,060 cubic feet. That would give you this 6.51 cent price.

[fol. 180] Q. Now, that is true, is it not, as to each of the years from 1939 to 1949 or '50, which you took from the Year Book?

A. The Mineral Surveys.

Q. The same explanation applies to that——

A. I have some other pamphlets here for the last five years for the same thing.

Q. What I am getting at is the same explanation applies?

A. Yes, sir.

Q. In all of those instances, you are dealing with the volumes of natural gas actually produced at the well?

A. The volume of natural gas actually marketed, not produced at the well. It's been more than that.

Q. Well, I thought you referred to price at the well, or something like that?

A. In marketed production.

Q. All right.

A. It was 408,000,000.

Q. I may have misunderstood you a while ago. What was that about the well?

A. The total value at the well of marketed production, is $408,776,000.00. Marketed production of natural gas, increased 6,282,060 cubic feet.

Q. That included all of the constituents of the natural [fol. 181] gas, didn't it, as produced?

A. That's the value at the wellhead.

Q. That's the way you understood it, at any rate, as including all of the constituents of the gas, and it was on that assumption that your table, Exhibit No. 11 was prepared?

A. Yes, sir.

Q. And your Exhibit No. 17 and the chart, Exhibit No. 12?

A. It's the actual price paid for marketed production as reported by Mineral Surveys and this bulletin.

Q. Now, will you glance first to Exhibit No. 18. In that exhibit, you are purporting to compare cost at Chicago?

A. Yes.

Q. Your first item is natural gas?

A. Yes, sir.

Q. There is, in the second column, pounds MM B.T.U.

A. That is the weight of a million B.T.U.'s of each respective fuel.

Q. And in the next column you've got transportation rates per one hundred pounds?

A. Yes, sir.

Q. How did you get that transportation of $12.64 for one hundred pounds?

A. 12.64 cents.

Q. 12.64 cents, I'm sorry. Where did you get that figure? [fol. 182] A. A thousand cubic feet of 9.71376 gravity, 1.025 B.T.U. per cubic foot natural gas produced in Texas County, Oklahoma, weighs 54.33 pounds. Divide 54.33 by factor 1.025 gives you 53.00 pounds, the weight of a million B.T.U.'s.

Q. And how did you get that 12.64 cents?

A. 12.64 cents is calculated from the figure 6.7 cents per million B.T.U.'s using 53 pounds, costs 6.70 cents to transport, a hundred pounds can be transported for 12.64 cents.

Q. Then 6.70 is the basis for the 12.64, is that correct?

A. Yes, sir.

Q. Now, tell us how you got the 6.70 cents as a transportation charge?

A. I can refer to my notes on that. This is Natural Gas Pipeline Company of America?

Q. Yes.

A. In 1950, the Federal Power Commission's statistics on Natural Gas Companies, put out by the Federal Power Commission, gives the figure gas sold to other gas utilities, 16 of them, 16 other gas utilities, at one hundred eighty-seven million, eight hundred and six thousand, two hundred and sixty-six, mcf, and the revenue they obtained from other gas utilities for that oil and gas was twenty-one million, thirty-eight thousand, eight hundred and eighty-[fol. 183] two dollars. Using those two figures the calculated revenue per mcf was 11.20 cents. Dividing by the factor 1.025 to get it on a million B.T.U. basis, gives you 10.93 cents as the revenue for a million B.T.U.'s of energy. The same book gives the amount of gas purchased, by the Natural Gas Pipeline Company of America, to be one hundred ninety-one million, eight hundred ninety-three thousand, six hundred twenty-eight mcf's at a cost of eight

million, three hundred eighteen thousand, two hundred and thirty-four dollars. Using the last two figures gives you a calculated cost per mcf of 4.33 cents. Again using the factor of 1.025 gives you a cost of per million B.T.U. of 4.23 cents. Now, subtracting this cost 4.23 cents from the revenue of 10.93 cents per million B.T.U. gives you the figure that I have there, 6.70 cents per million B.T.U. the actual amount of money received in 1950 per million B.T.U. of energy transported.

Q. You are aware, are you not, of the fact Natural Gas Pipeline Company of America in its rates and charges is regulated by the Federal Power Commission?

A. I have a letter from the Federal Power Commission stating what the rates are.

Q. You are aware of the fact that their rates are regulated by the Federal Power Commission? You are also [fol. 184] aware, are you not, of the fact Natural Gas Pipeline Company of America does not deliver gas to Chicago?

* * * * * * *

A. Here's a letter from the Federal Power Commission in 1949, if you would like me to read it to give you the price.

Q. If you think it necessary in order to answer my question. I'm not asking you anything except an answer to my question.

A. Delivered to—Natural Gas Pipeline Company sells natural gas to its affiliate, Chicago District Pipe Line Company, at a point near Joliet, Polo, Maringo and McHenry, Illinois. Chicago District then resells a portion of this gas to Peoples Gas, Light and Coke Company of Chicago. Now, Natural Gas Pipeline Company and Chicago District Pipe Line Company are wholly owned subsidiaries of Peoples Gas, Light and Coke Company of Chicago.

Q. Does it say anything about Chicago District Pipe Line [fol. 185] Company's rates are also approved by the Federal Power Commission for carrying it from the point of delivery in the Chicago District into Chicago?

A. I've got it figured out here per million B.T.U.'s. I've got it on the same basis here as my calculations, using figures from statistics of the Natural Gas Companies for 1950.

Q. Well, that isn't included in your 6.70 cents, is it?

A. No, it is not.

Q. Chicago District also, during that period, according to your information, sold to other utilities in the Chicago area, did it not, and those prices are not included in your calculations?

A. Yes, in this calculation right here it is.

Q. In the one you put in evidence?

A. I haven't put in it yet.

Q. It's not included in 6.70 cents?

A. No, sir. I can tell you what it is though per million B.T.U., what they got for handling gas.

Q. I'm just asking for an explanation of your exhibit. You also learned, did you not, that these different utilities companies then sold that gas to consumers in the Chicago area?

A. Yes, sir.

Q. And did you reflect in any of your exhibits the prices [fol. 186] paid by the consumers for that gas?

A. I didn't go into it on a retail price basis on any of these.

Q. You know, did you not, that each of those utilities companies was regulated by the Illinois Power Commission, the utilities companies in the Chicago area? That they were regulated by the Illinois Commerce Commission in their rates?

A. I didn't care about that. I wasn't interested in figuring the retail prices. I based all my data on the source costs of these fuels.

* * * * * * *

[fol. 187] Q. Now, you know, did you not, that Natural Gas Pipeline Company rates do not consist or include a rate for transportation?

A. It looks to me like they would set a price at the other end of the pipe line to include the price for transporting it and get an overall profit on it, whatever it amounted to.

Q. Well, you know, did you not, that Natural Gas Pipe's rates to Chicago District, and the other companies along the line, were all rates for the gas, and did not include a separate rate for transporting gas?

A. It seems to me like it would be a rate if they charged that for it.

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[fol. 188] Q. The only thing you learned in your investigation was that Natural Gas sold 187.8 plus million cubic feet and got twenty-one million, roughly dollars out of it, making the average receipt for that gas 1.202 cents?

A. Yes, or 10.93 per million B.T.U.

Q. That's after you had converted it to one thousand B.T.U. gas?

[fols. 189-198] A. Yes. Now——

Q. You got a price of 10.93 cents as the total amount Natural Gas Pipeline Company received for all the gas it sold, that's correct, isn't it?

A. That's very close to it.

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[fol. 199] Q. Now, you are somewhat familiar with the situation in Oklahoma, are you not, as to utilization in industry of natural gas?

[fol. 200] A. No, sir, I'm not familiar with the use of the gas. I know where some of it is used.

Q. Well, you know there's a good deal of boiler gas used in Oklahoma, as fuel, don't you?

A. Probably used in electric plants.

Q. And that's quite an industry in this state, is it not?

A. Yes, sir.

Q. And is any substantial amount of the gas from the Guymon-Hugoton Field used for that purpose, in Oklahoma?

A. Most of the gas in Guymon-Hugoton Field is transported out of the state.

Q. At least 99 percent of it is transported out of the state, is it not?

A. I presume that's approximately right.

Q. And where does this gas, that is being used within the state as boiler fuel, come from, what field?

A. I think the Chickasha Fields, maybe Cement Fields, and various small fields and oil fields.

Q. What is the price of gas at the wells in those fields?

A. I don't know the price.

Q. Well, you know what some of the prices that are being paid are, do you not?

A. I'm not familiar with the figures on the various fields.

[fol. 201] Q. Do you know of any sales in any of those fields that are 9.8262 cents?

A. No, sir.

Q. All that you know are substantially under that price, are they not?

A. All except some gas out in Texas County is all I know of.

* * * * * * *

Q. From what other fields in Oklahoma, other than the Guymon-Hugoton Field, is gas exported from the state?

A. I wouldn't know.

Q. Do you know of any?

A. I presume that some of this West Edmond gas is transported.

[fol. 202] Q. You know where?

A. No, sir.

Q. Is there some both exportation and importation by the Lone Star Company down in the lower part of the state, or are you familiar as to that?

A. I know they are hooked up with some of the individual gas wells, I don't know whether they can transport it out of the state or not.

Q. I see. You are not familiar, then, as to whether or not there is any gas being transported out of any Oklahoma field except the Guymon-Hugoton Field?

A. None that I can recall.

* * * * * * *

[fol. 203] Q. You referred to some wasting of gas in the Hugoton Field?

A. Yes, sir.

Q. That was in a cleanout operation. Those operations were all carried on in accordance with the rules of the Commission, were they not?

A. I presume they are.

Q. As far as you know, no one in any such clean-up operations has violated any of the Commission's regulations?

A. Haven't heard of any.

Q. Just which companies now have used excessive amounts of gas, in your opinion, for clean out operations, popped it into the air?

A. Well, some wells have blown more than others. It would be hard to say which companies blew their wells more than others. I really don't know. I know they blow the*n* and that's all.

Q. And you don't know which companies blew them or which wells?

A. No, sir.

Q. And you do not know the price which those companies that blew those wells are receiving for gas?

A. I know the price *of* some of the companies are re-
[fol. 204] ceiving for gas.

Q. Did Republic Natural Gas Company blow any wells?

A. I presume they have.

Q. Do you think they blew more than they should have?

A. I wouldn't be able to answer that. I don't know.

Q. Do you know whether Cities Service Oil Company blew any wells?

A. I presume they did.

Q. Do you know whether or not they used more gas than they should have, in your judgment, in blowing those wells?

A. I wouldn't be able to tell you.

Q. How is that?

A. I wouldn't be able to tell you.

Q. What percentage does this blowing gas bear to the production during the year?

A. I wouldn't be able to make a very accurate estimate on it, but it covers around one percent.

Q. Can you relate that to any particular well at all, the one percent?

A. No, sir.

Q. You stated that in your opinion if the price being higher there wouldn't have been so much gas blown into the air, I think I'm quoting you correctly, is that correct?
[fol. 205] A. Yes, sir.

Q. It's a fact, is it not, that the primary thing in determining the amount of gas which is blown into the air

is governed by the conditions of the well and the amount that is necessary to blow the well in order to clean it out?

A. That's partly so. Also partly depends upon the method of completion, whether the well has tubing installed in it, or not.

Q. And have you made a study on any well from an economic standpoint, showing how a company could afford to change the completion and condition of its well in order to avoid the amount of blowing which is now being done?

A. I made a study.

Q. Don't you, as a matter of fact, think that the Commission through its regulations and through its supervision has done an excellent piece of work in the Guymon-Hugoton Field in holding down the blowing of gas to the very minimum?

A. I think they are doing very good in conservation out there.

Q. Don't you think it's been an unusually good job?

A. Yes, sir.

Q. And don't you think that if any suggestions were made, looking toward further efforts to minimize the waste [fol. 206] of gas due to these blowing operations that all of the producing companies in the Guymon-Hugoton Field would gladly cooperate with the Commission?

A. I think they would, yes, sir.

Q. You were with the Commission, I believe, were you not?

A. Yes, sir.

Q. Did you ever make a recommendation to any of the producers in that field that any changes be made so as to lessen the amount of gas blown into the air in clean-out operations?

A. No, sir, not while I was in the employ of the Commission.

Q. When did you?

A. Not while I was with the Commission.

Q. Well, did you before or since?

A. Yes, sir.

Q. When?

A. I wouldn't know the exact date but I advised people

to install tubing in wells that made considerable amounts of liquid.

Q. Well, who was it you gave that advice to?

A. Butcher-Carrier well.

Q. What well is that?

A. Butcher and Carrier, Oklahoma A & M, town of Blackwell—college well.

[fol. 207] Q. Butcher and Carrier are the operators?

A. Yes, sir.

Q. And that's in which field?

A. Guymon-Hugoton.

Q. And did they accept your recommendation?

A. They installed tubing.

Q. Anybody else?

A. Not that I recall. They haven't asked me.

Q. Beg pardon?

A. I don't believe anyone else has asked me for my advice.

Q. Now, of course, you made no market study of the conditions in the Chicago area for the purpose of determining whether or not if they were required to pay a price higher than the present prices, they would continue to burn gas, did you, in industrial plants?

A. The only comparison I made is shown on Exhibit 18 which shows that lump coal in Central Illinois costs, wholesale, Chicago, 32.8 cents per million B.T.U., which would indicate to me that anybody who had a demand for energy would be glad to buy this gas at 16.3 cents, about half of that.

Q. And why did you use lump coal there?

A. Well, I've got other priced coals here if you like them.

Q. My question is why you used lump coal?

[fol. 208] A. Because I thought that would be a coal that would be in competition with gas as it should be used for home heating.

Q. Is that the only check you made as to home heating?

A. Well, screenings from that same area would cost about three dollars and seventy-five cents per ton compared with this price I have here of 4.625 per ton, which is not a material saving and might cut that cost down on

screening to somewhere in the neighborhood of 25 or 26 cents.

* * * * * * *

Q. Probably my question was not very clear, there was a dash in there. All of your investigation related to the use of fuels for home heating, didn't it?

A. No.

Q. But as for lump coal, you thought that would be used for home heating?

A. Well, I used it and I stated I used it. This price in Chicago is the price of lump coal. If you want it for some other coal, I'll figure it out for you and tell you. I would be glad to.

Q. I thank you very kindly. My next question is, you know that if the supply of gas outside of Oklahoma was [fol. 209] limited to gas for home heating and space heating, the royalty owners in the Guymon-Hugoton Field would not have any outlet for their gas, don't you?

A. I understand there is many permits asking for connections for home heating in Chicago, Minneapolis, St. Paul, and all down the line.

Q. And what part of the year do they use gas for home heating?

A. Mostly in the winter time.

Q. Then the farmers would have no royalty during the summer time, would they?

A. The gas companies could get some old fields, use it for storage and during the summer months they could transport gas to this storage and dole it out in the winter.

Q. But unless they do that, the farmers in the Guymon-Hugoton Field would have very little outlet for their gas, wouldn't they?

A. If they got a comparable price for what it ought to be they would use as much for the little gas they sold as they get for the whole lot they sell now.

Q. Where can they get it?

A. At the price of 25 or 30 cents where it ought to be.

Q. You have talked to no users of fuel in any of the [fol. 210] markets referred to, to see how much gas they would take if the gas price were two or three cents higher, have you?

A. I haven't tried to sell it, no, sir.

Q. You know most of the gas which is transported throughout the year, even during the winter time, is used in connection with manufacturing companies and concerns of that kind, don't you?

A. I probably could find out what percentage.

* * * * * * *

Q. Well, in the report of Commissioner Wimberley and Commissioner Smith, I find this statement: "Natural gas is used chiefly for industrial purposes which accounts for nearly eighty percent of its total marketed production." From your investigation, are you——

A. Here's a figure right here that gives the industrial users out of a total of gas sales was five billion, six hundred sixty-seven million, four hundred thirteen thousand cubic feet; one trillion, one hundred thirty-three million, two hundred twenty-nine thousand cubic feet was used by in- [fol. 211] dustrial users.

Q. One trillion out of how many?

A. One point three trillion out of five point six. Other gas utilities took the bulk of it, three point five trillion which possibly a lot of that went to industrial users.

Q. Well, at any rate, as far as your investigation goes you have found nothing to conflict with the estimate made by Commissioner Wimberley and Commissioner Smith that eighty percent of the total gas marketed in the United States is used for industrial purposes?

A. Not without further study.

* * * * * * *

Q. Well, the Guymon-Hugoton Field, for a number of years, had a very small market, didn't it?

A. Yes, sir.

Q. And other pipe lines came into the area and increased [fols. 212-217] the volume of gas going out very substantially, didn't they?

A. When they come in.

Q. And as each new company came in there has been an increase in the contract prices, hasn't there?

A. Slight increases in contract prices, yes, sir.

Q. You have heard of none of the producers who were losing money in producing this gas, have you?

A. I don't know about the economics, but I imagine there is plenty of wells out there that are non-commercial where they don't get the cost of their wells back.

Q. Well, that's because gas wasn't in the ground, or wasn't deliverable from the well?

A. Because the price of gas is not high enough to get back what they paid for it.

Q. And that's true in any field, is it not, regardless of the price of gas?

A. The higher the price the less it would be developed.

Q. That's right, but the economics of the project takes into consideration both the income and the outgo, don't they?

A. Maybe so.

Q. And people take into consideration present prices when they decide to drill a well, ordinarily, don't they?

A. Well, they probably think about the future also.

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[fol. 218] A. I would have to know how much the production was and the price they paid for it.

Q. Do you own any interest in wells in Texas County?

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Q. Well, which ones?

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[fol. 219] A. Panoma Corporation, Cities Service Gas Company, Skelly Oil Company, Stanolind Oil and Gas Company; American Gas Corporation, Panhandle Eastern Pipe Line Company. I think that covers it.

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[fol. 220] Q. The royalty owners of the Guymon-Hugoton Field are getting the benefit of much more transportation of gas now than they were five years ago, aren't they?

A. Yes, but they are using up their reserve faster and it

won't last as long as it would at the rate they were paying five years ago.

Q. Well, do you as a royalty owner, want to leave your gas in the ground?

A. I'm not a royalty owner.

Q. Or as part well owner, do you want it produced?

A. I would like to conserve it for a while until the price gets up where it ought to be.

Q. By "conserve" you mean "hoard"?

A. I mean it hadn't ought to be produced until people who want to buy it will pay the price that it is worth.

Q. And you do mean that you do not want your property to produce until you get a certain price for it?

A. I would rather keep it—until I can get what it's worth.

* * * * * * *

[fols. 221-233] Chairman Bond: Do you know how much money is going to be returned to the royalty owners and parties in interest out there by reason of the Commission fixing a wellhead price of seven and a half cents, or seven cents?

A. It amounted to a very large sum.

Chairman Bond: Do you know how much money has accumulated during these lawsuits?

A. I believe it's five or six million dollars. Something like that.

Chairman Bond: Isn't it nearer sixteen million dollars?

A. It might have been.

Chairman Bond: And have you read the estimate of the geologists or petroleum engineers on how much they would be saved during the life of the field?

A. I haven't read that estimate but I presume there's quite a bit.

Chairman Bond: You haven't heard them say it would be two hundred million dollars the Commission would have saved the people out there during the last life of this field, have you?

A. That would be easy to calculate.

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[fol. 234] Examination.

By Mr. Culton:

Q. Mr. Bailey, I think this is in the record, no doubt, but you talked some yesterday on cross examination about the physical waste of gas in the Guymon-Hugoton field?

A. Yes, sir.

Q. Limited it, I believe, to that gas that was used in cleaning out the wells?

A. Yes, sir.

Q. Now, is there any different method used now than there was prior to January 1, 1947, in connection with that?

A. Some of the wells, including Panhandle Eastern's wells, which are being completed now, the tubing installed at the time of completion, this installation of tubing allows production of gas taken from the well to carry condensed water, and other gas liquids, that collect at the bottom of the [fol. 235] reservoir to the surface while the well is being produced and eliminates the necessity of a lot or the greater part of blowing of the wells into the air to remove this liquid.

Q. Well, those operations are all pursuant to the orders and directions of this Commission?

A. They are all in compliance with orders of the Commission.

Q. How's that?

A. I presume they are all in compliance with the orders of the Commission.

Q. Of course, you are not inferring that the Commission would promulgate any orders that would waste gas out there, are you?

A. I am inferring that it might be possible that the higher price of gas might cause you to install tubing in a few of the wells.

Q. Well, are you inferring that the companies in that operation ought to follow some other order or direction than that promulgated by the Commission?

A. It doesn't order the installation of tubing, in the wells. It is merely a matter that is undertaken by the operators as a measure to conserve part of the gas that is wasted by blowing it away.

Q. What I'm trying to get at, are you leaving the inference here that the Commission is derelict in its duty out [fol. 236] there in respect to the way they have handled that operation?

A. No, sir, not at all.

Q. Now, I don't understand graphs and charts and lines very well. Do I understand your testimony to mean that if natural gas is sold out of the field at a price for fuel in connection with other comparable fuels, that any price fixed, any minimum price fixed, would be wasteful utilization of that gas unless they did compare with prices on other fuels?

A. The cheaper the price of gas the more would it be used in wasteful operations. Otherwise, we might obtain our energy from inferior qualities of fuels, such as coal, slack coal, and such.

Q. Are you trying to say now that it hadn't ought to be used for those things that coal and these other fuels are used for, is that what you're basing it on?

A. I think that natural gas can be used for any use whatsoever so long as the user will pay the price that the fuel should be worth.

* * * * * * *

[fol. 237] Q. Well, what would the price have to be now in the Guymon-Hugoton Field if you as a producer or I as a royalty owner would have to get in order to bring it up to a price comparable to these other fuels?

A. I already stated before that if natural gas at the source at the wellhead was in free, open and competitive market the same as other fuels and had been that way for the past ten years the price of natural gas in Texas County, Oklahoma, at the wellhead today would be in the neighborhood of twenty-five to thirty cents per thousand cubic feet.

Q. Well, I know, but of course that's—I'm not asking about that. What I'm trying to find out under the situation as exists what price would we have to get out there before its wasteful utilization of it, when you compare it with these other fuels?

A. I just brought that out this morning that if the Commission set the price I don't presume to tell them what to set it at, because they know more about it than I do and they

are going to hear testimony from several other witnesses. But from my viewpoint of it and my study of the past trends and fuel costs in the nation, I believe that their setting a price today of 12.64 cents per mcf would not work any more [fol. 238] hardship on gas purchasing companies than at setting the price at seven cents in 1947.

Q. Well, I don't care what kind of hardship it works on anybody. The Commission, I take it, are not interested in whether it's going to work a personal hardship on me or you. They probably are as our personal friends, but they don't care as a legislative body here about what I get or what you get. I'm not talking about that. I'm talking about what price the Commission ought to set on gas in the field out there as you have compared it to other fuels, coal, so that under your theory of the thing, it wouldn't be wasteful utilization. That's all we're interested in and I take it that's what the Commissioners are interested in.

A. Under the existing circumstances, considering the fact that the price of gas has been priced at a low level for the past ten years by controls, I believe at the present time that the price of gas should be set at 12.64 cents per mcf would not cause any large scale reconversion of users who use natural gas at present.

Q. That's just what you said before but how would that compare with other fuel prices?

A. It would still be too cheap, too low.

Q. Well, that's what I'm trying to find out. What ought [fol. 239] it to be set, under your testimony, you are comparing it with other fuel prices, what the price ought to be now set.

A. I'm not telling them they ought to set the price now at that because I feel setting a price at the figure I would quote to you would be too much of a change all at once. It might throw your system out of order.

Q. But it ought to be twenty-five or thirty cents, is that what you want?

A. That's what I set it awhile ago. I set it on a graph.

Q. Do you think the Commission ought to set and not make changes in conserving this valuable gas out there if it's being wasted, at the price you are fixing here?

A. I might say that if the Commission sets a price at that figure it will cause a lot of the market gas in Texas County to be supplied by gas purchase in Texas, but if this Commission has the authority to set the price in the whole Southwest and set it at twenty-five to thirty cents, it would be all right, it would be good.

Q. Well, that wouldn't be based upon wasteful utilization of gas in Hugoton Texas County Field, you would be fixing that on prices that are being paid around Kansas, Texas and other places. Now, in order to conserve gas, do you think that the price ought to be fixed on all of it or just one-eighth of it?

[fols. 240-241] A. I think the Commission in the State of Oklahoma has a rule that if you pay a certain price for one-eighth of the gas you would have to pay the same price for the rest of it. I don't believe you can pay two prices in the same field.

Q. Now, the Commission, of course, would fix the minimum price in the Guymon-Hugoton Field. Some of these producing companies produce their own gas. Would it be your opinion that they ought to have a minimum price on their own produced gas?

A. I would think they would.

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[fols. 242-277] Q. Now, you said something a while ago in connection with the installation of tubing by the Panhandle Eastern and others in those wells. Has that any connection with cleaning up the wells? Does that tend to increase or decrease the amount of gas?

A. The installation of tubing tends to decrease the amount of gas.

Q. Well, the waste will be less now under this operation than it was before they started using tubing?

A. Yes, if they install tubing in all the wells it would help.

Q. And if that has happened as far as Panhandle Eastern is concerned, then the waste is not as much physical waste, as much as it was prior to 1947?

A. That's right. Panhandle has found that installation of tubing in some of their wells has decreased the amount of waste.

* * * * * * *

[fol. 278] Mr. Robinson: What is your name, please?

A. P. McDonald Biddison.

Q. Where do you live, sir?

A. My residence is Jacksonville, Florida. I maintain an office at Tulsa, Oklahoma.

Q. In what business are you engaged?

A. Consulting Engineer, specializing in natural gas and petroleum.

Q. What is your educational background?

A. I am a graduate of Kansas State College with a Degree of Bachelor of Science in Electrical Engineering.

Q. When did you drift into the matter of specializing in gas engineering?

A. I've been engaged in the natural gas petroleum industry since 1905. I've been in consulting work since 1928.

Q. Briefly relate your experience and background, sir.

A. My first work in the natural gas industry was with the Kansas Natural Gas Company, now part of the Cities Service organization. Then I was with the Columbia Gas & Electric Company on construction of their system from [fol. 279] West Virginia into Cincinnati in 1908 and '9. I was then with Ohio Fuel Supply Company, Columbus, Ohio, now part of the Columbia system, on construction work. Then I was with the Texas Company at Port Arthur for a year, in 1911, on refinery construction. Then back with the Ohio Fuel Supply Company until 1919, as their Construction Engineer. I then had two years in Mexico on oil lines, oil pumping stations and oil loading station construction. That engagement was finished in 1921. I then became manager of some properties controlled by H. D. Walbridge & Company, comprising production properties in the Monroe Field of Louisiana in what is now the Carthage and Wascom areas at the Louisiana-Texas State Line and, in this connection, I built a carbon black plant, some gasoline plants, some transmission lines, and reported on several projects, some of which were later constructed but not by the group I was working for. During this period I was also Consulting Engineer to the Dallas Gas Company and affiliate gas company at Dallas, Texas. These properties were sold in 1928 and I then opened my office at Monroe, Louisiana, as a Consultant. Shortly afterward I reported on a project for

a natural gas pipeline into Salt Lake City, which was constructed on the basis of my report. I participated in negotiations for the line from the Monroe Field to Memphis [fol. 280] and I became Consultant to the Southern Natural Gas Company during the construction of their system from the Monroe Field to Birmingham, Atlanta and other intermediate cities. In 1931 I moved my office to Dallas, Texas, and practiced there until 1942. Late in 1942 I became employed in the Office of War Utilities at Washington and in 1943, in the Spring, I opened my office in Chicago. About two years ago I moved my office to Tulsa. I have done work for most of the major gas companies and for some of the oil companies. I have done governmental work during the first World War on the helium projects. I was Consultant to the U. S. Bureau of Mines on war gases during that period.

Q. Mr. Biddison, has your experience been broad enough to take you into every phase in the business of producing, transporting and marketing gas?

A. Yes, sir, and in the utilization.

Q. To what extent are you familiar with the Guymon-Hugoton Field which is under discussion in this matter?

A. Well, I have not, personally, spent much time in the Field, but I am familiar with the area. I have done work on estimates for pipelines and for gathering systems in which the productivity and the amount of reserves in the Guymon-section of the Hugoton Field were a fraction.

[fol. 281] Q. Have you any present contact with any prospective purchaser of gas from that area?

A. Yes, at the present time I am engaged by the Colorado Interstate Gas Company in a program to connect up some additional reserves to their system, and they are a prospective purchaser of natural gas any place within quite a wide range.

Q. Have you been present in the courtroom since this trial started?

A. Yes, sir, continuously.

Q. You've heard all the testimony which has been introduced by Mr. Bailey as a Statistician in developing the disparity in price paid gas and other competitive fuel commodities, have you not?

A. Yes, sir.

Q. Have you made any study of your own in respect to the comparative values of these particular products which may be called their intrinsic values for fuel use?

A. Yes, not only in connection with this particular problem, but back over the years in connection with studies of possibilities of pipelines to various communities I have had to study these relative values of fuels as retailed in the prospective markets for natural gas.

Q. Have you ever been called upon by a consumer or a [fol. 282] user of heat energy to make recommendations as to the kind of fuel which should be employed?

A. No, I've been on the other side of the fence in dealings of that nature, where it was my function to demonstrate the advantage of natural gas over the other fuels.

Q. In connection with your studies and your activities on the other side of this fence, what conclusions have you reached over a period of years as to the usability of gas as a fuel as compared to these other commodities?

A. As a general proposition, natural gas as a fuel has inherent advantages over other fuels of any type, whether they are liquid fuels or solid fuels. One of the advantages is that the commodity is delivered when required and at the rate required by the user, thus eliminating any necessity for storage facilities.

Q. If natural gas and coal cost, say, the same amount of money per unit of heating energy, which of the two commodities would most of the users or consumers elect to take if they had an equal opportunity to take both?

A. They would take natural gas.

Q. So that, in your opinion, natural gas has, at least, an inherent value for use as fuel equal to that of coal?

A. In excess of that of coal.

[fol. 283] Q. So that if we make a comparison between coal and natural gas in actual cost of the two commodities delivered to the consumer, you would say that the purchaser of natural gas is getting a bargain for any amount of money which the fuel would cost him less than that of coal?

A. I say yes to that, with one exception that comes to my mind and that is this—that as a boiler fuel in certain types of boiler installations, the super heater may be so arranged that you will get a little higher efficiency burning powdered

coal that you will burning natural gas, and that is the only exception which I know to that general rule.

Q. Were you acquainted, generally, with the conditions which existed in the Guymon-Hugoton Field back in the latter part of 1946, when this price of natural gas was under consideration in that Field by this Commission?

A. Yes, sir.

Q. Are you acquainted, generally, with respect to the marketing conditions which exist out there, now?

A. Generally so, yes.

Q. In your mind have conditions changed any in respect to the price at which this commodity—have conditions changed which have an impact on what that commodity should sell for in the Field?

[fol. 284] A. Yes, sir.

Q. What changes have taken place since 1946?

A. Since 1946, on all the major pipeline systems drawing gas from that area and the area adjacent to it in that same and in the Panhandle Field of Texas, generally, there has been a tremendous increase in the requirements of the markets served by those pipelines. An increase so great that the pipeline companies have had great difficulty in maintaining capacity to meet the market requirements and are now having difficulty in obtaining sufficient gas to meet the requirement which they have provided and are still faced with increasing loads which will entail further requirements of capacity and further requirements of reserves to meet the capacity.

Q. Has there been any change in the cost of producing the commodity?

A. Yes, there has been a very material change in the cost of production.

Q. In which direction has the cost changed?

A. The cost of production has materially increased.

Q. Are you acquainted with the prices of gas which are being paid in that Field?

A. Generally so, yes.

Q. Do you know if, during the interval we are talking [fols. 285-286] about from '46 to '47, any new contracts for the purchase of gas had been entered into?

A. Yes. One important contract was that of Northern

Natural Gas Company for gas from what was called the Vernon Taylor acreage, which I believe now is American Gas Production.

Q. Are you talking about the American Gas Production Company?

A. I think that's the name that went with the acreage known as the Vernon Taylor acreage. I'm not certain of the name on that, but I have the block in mind that's known as the Vernon Taylor block.

Q. Are you referring to the contract between the Northern Natural Gas Company and the American Gas Production Company?

A. Yes, sir.

Q. Do you happen to know what the price fixed for gas in that contract was?

A. I am informed 11 cents at a 16.4 pound base.

* * * * * * *

[fol. 287] Q. You have heard there was a contract negotiated for that price?

A. Yes, sir.

* * * * * * *

Q. So that if the Commission should, by order, set a minimum price in the Field of 9.8262 cents as we have it worked out for gas bought or purchased at the wellhead in that Field, measured at a pressure of 14.65 pounds per square inch, at least as to that purchaser they would not be required [fol. 288] to pay any more money than they are now paying?

A. That's right.

Q. In your opinion, is that price in excess of the actual value of the gas for the uses for which gas is suited?

A. No, sir, it is not.

Q. In your opinion, is that price in excess of the price which could be obtained for gas from that Field, if the gas were not already committed?

A. No, sir, it is not in excess of the price that could be obtained if the gas were not already committed.

Q. What price do you think gas could probably be sold for in that Field if it were not thus committed?

A. Ten cents per thousand cubic feet or more at 14.65 base.

Q. Do you have any general acquaintance with gas purchases throughout the country which would indicate to you that the purchasers of gas believe that it has at least that value?

A. Yes, sir.

Q. What sales and purchases do you have in mind?

A. I supervised the gas purchasing program for the pipeline that was recently finished and went into operation in the Fall of 1951. We bought our gas on the Gulf Coast area. We started purchase negotiations in the summer of 1947, with the idea in mind that since a great deal of gas in that [fol. 289] area and in the Carthage Field of Texas was being sold at 5½ cents or less, we could buy an ample supply for six cents at 16.4 base. We never acquired a foot of gas at this price, and not until we set a price of 9 cents per thousand cubic feet at 16.7 base with an escalator clause of one cent per thousand each five years and a favored nation clause under which we would meet the price set by any other producer in the area, were we able to buy any gas.

Q. Do you know of any contracts which long line gas companies, any offers purchased by long line gas companies for prices, say, in the range of 15 cents per thousand cubic feet?

A. Yes, and the price is reported to be agreed to for that gas to go to Canada from the Humble Oil Company, is of the order of the price fixed by Humble in 1948 at the time myself and associated had conversations with them about gas. However, at that time we did not feel that the 15 cent price, which is the price I am talking about, was justified and, furthermore, Humble at that time said their policy was to be that they would not sell one foot of gas for movement in interstate commerce.

Q. Mr. Biddison, is gas a replaceable commodity or is it an irreplaceable commodity?

A. Well, it could be replaceable at a slow, slow rate, but [fol. 290] it doesn't make any difference to anybody now living.

Q. Then, for all practical purposes we can say that it is an exhaustible natural resource, is that right?

A. Yes, sir.

Q. If we first assume that the State of Oklahoma has an interest in preserving natural resources or seeing that they are—the state and its citizens realize its value therefor, if it can be prevented, what action do you think the state ought to take to prevent sales of gas from that field for less than 9.8262 cents?

A. I think to protect the interests of the State of Oklahoma and its citizens that the Commission ought to use such powers as it has to provide a price for gas produced in Oklahoma that will produce the maximum revenues consistent with a policy of maintaining markets.

Q. And do you believe that a price of 9.8262 cents would adversely affect the position in respect to markets?

A. No, sir, I do not.

Q. And do you think the gas which is being sold from that field is worth at least that amount of money per thousand cubic feet?

A. I do.

Q. Now what, in general, is the effect of increased prices [fol. 291] for gas on the question of actual physical waste of gas?

A. Its general tendency is to prevent waste.

Q. That is, the more money you get for it it's just natural less of it will be wasted?

A. Certainly.

Q. In this particular field, will there be encountered what they call thin acres?

A. Yes. There is some thin acreage on the eastern side of the Hugoton field that some price might produce what we call commercial wells and at some other price might not be drilled at all.

Q. Well, will an increase in the price of gas, generally, have a tendency to see that the field is fully developed?

A. Yes, sir, it would.

Q. What will be the effect of more complete development upon the correlative rights of the owners of that common source of supply?

A. Can you give me that question again?

Q. What effect will the increase in the price of gas have

upon the correlative rights of the owners of that common source of supply?

A. Well, it would tend to produce a revenue to the owners of acreage that are on the marginal areas of the field which [fol. 292] they would not otherwise get, because at the lower price the wells would not be drilled. Of course, if the wells in that marginal acreage are not drilled a landowner in that area receives no gas revenue and the gas under his acreage tends, to some extent, to migrate to areas where production takes place.

Q. That is, until he gets the well, he doesn't participate in the gas even though there is gas under his land?

A. That's correct.

Q. So, in general, the more wells that are drilled the better the correlative rights of the owners of the common source of supply would be protected?

A. That's right.

Q. How, could that thin acreage be later developed, say, after this field or the better part of the field has been produced and exhausted and maybe in years to come the price goes higher and higher?

A. Well, if the price goes high enough, eventually it could be produced but there's a question whether at the time the price becomes high enough there will be enough pipe line facilities in there to go out and reach it. What will happen a great many years from now is pretty hard to predict.

Q. Well, let's paraphrase it——

[fol. 293] A. That's hard to predict.

Q. Well, let's paraphrase it then. This gas, also, has to be loaded while the tide's in, doesn't it?

A. That's right.

Q. Mr. Biddison, in what manner would the owners, producers of that gas, be adversely affected if any, by an increase in the wellhead price of that field? Do you visualize any manner in which detriment will occur to the State of Oklahoma or to the citizens of Oklahoma by the increase in this lower price?

A. I can see only advantages to it.

Q. Then the Commission having authority to set a price, do you know of any reason why they should not do so?

A. I do not.

Mr. Robinson: You may cross examine.

Examination.

By Mr. Culton:

Q. Mr. Biddison, you refer to the fact you are now trying to obtain reserves for Colorado Interstate Gas Company in the Oklahoma field or elsewhere, I believe?

A. That's right.

Q. Is any of that thin acreage that you referred to available for lease now?

[fol. 294] A. I think there is some of it now, Mr. Culton.

Q. Have you taken any leases on it?

A. No, sir.

Q. Do your proposals that you are making in your effort to obtain additional gas supplies for Colorado Interstate contemplate a definite price either through the period of the contract or through escalator clauses?

A. We have in mind that there will be escalator clauses in it.

Q. But you do have in mind the price fixed in the contract is what you will build your estimates in the future on?

A. That's correct.

Q. And it has been your practice in all your former estimates for the construction of different pipe lines to follow that same policy and build your products based on the estimates of gas available under your commitments and the prices that are set forth in those commitments?

A. That's correct.

Q. That is a necessity in the business, isn't it?

A. Yes, sir.

Q. You must have dedicated reserves before you construct your pipe lines so as to determine whether or not you will be able to make such a showing that will enable you to get a [fol. 295] certificate from the Federal Power Commission for the construction of pipe lines?

A. Yes, sir.

Q. And in that showing you show the prices you expect to pay and the reserves which are dedicated to your pipe line?

A. Yes, sir.

Q. Sometimes, you have raw gas dedicated and sometimes you have gas with guaranteed B.T.U. content dedicated?

A. Yes, sir.

Q. Now, you have done work in the past for Natural Gas Pipe Line Company, Cities Service Gas Company and for Panhandle Eastern Pipeline Company?

A. Yes, sir.

Q. And you, also, have done some work for Northern Natural?

A. No, sir.

Q. You did some work for Phillips, however, in connection with the market for Phillips to Michigan-Wisconsin Pipeline Company?

A. Yes, sir.

Q. You are familiar with the contract between Phillips and Michigan-Wisconsin Pipeline Company?

A. Well, I have been.

Q. You, at this time, know the general contract provisions?

[fol. 296] A. I know them, generally, yes. I can't quote prices on them at the moment.

Q. But what I was getting at, in those contracts there was a definite designation of the reserves and designation of the price?

A. There was a definite designation of reserves. The price, however, was tied to the commodity index of the Bureau of Labor's statistics.

Q. There was a variation from the price though——

A. Well——

Q. You had the base price——

A. You had the base price——

Q. And that price rises and falls in accordance——

A. The price varies with that index so the price in the final analysis is the base price as modified by the index.

Q. That's what I was getting at?

A. Yes, sir.

Q. Now, you know that the rates of Natural Gas Pipe Line Company, the rates Panhandle Eastern Pipeline Company, the rates of Northern Natural Gas Company, the rates of Cities Service Gas Company, and the rates of Michigan-

Wisconsin Pipeline Company for all gas sold for a resale by them other than in the states of production are regulated by [fol 297] the Federal Power Commission?

A. Yes, sir, I have cried with most of them.

Q. That's one case where you and the pipe line companies are in full accord, isn't it?

A. At least once.

Q. You and they both are in disagreement with the philosophy——

A. Yes, sir.

Q. —of the regulations?

A. Yes, sir. Some portion of that philosophy.

Q. The portion which I have reference to is the use of depreciated original cost as the basis and the only basis?

A. I quarrel with that, but I quarrel more specifically with the provision of the Natural Gas Act, which I think is inexcusable and entirely unwarranted, yet it has been interpreted literally by the Power Commission; whereas, in another portion of the Act, they just simply say the Act doesn't mean what it says. Now, the part I quarrel with is that provision under the Act that says the object is to secure the lowest possible prices for gas to the ultimate consumer——

Q. And you and the pipe line——

A. So that, tied in to the depreciated rate base, accounts for a great deal of difficulty that the gas companies, pipe line companies, are in today in meeting the demand of a [fol. 298] market that seems to have no limit.

Q. You and the pipe line companies are in full accord as to this agreement with the philosophy of that portion of the Natural Gas Act?

A. I believe we are.

Q. Then, you are also in accord with the fact that there is, logically, a conflict between that provision you have referred to and the provision which provides that rates shall be just and reasonable?

A. Yes, sir.

Q. So that, as far as the philosophy of the Natural Gas Act which is causing most of the trouble in the natural gas industry, you and the pipe line companies are in full accord?

A. Yes, sir.

Q. And you think that those same provisions are against the interest of producers as well as pipe line companies?

A. I think they are against the interest of the producer and the transmitter, the distributor and the consumer.

Q. Everybody involved?

A. From top to bottom.

Q. And in that particular, as far as you know, the pipe line companies and you are in full accord?

A. I think we are.

[fol. 299] Q. Now, you realize, do you not, that the prices which are charged by these companies, particularly on the sales or resales, are charged without relation to the purpose for which the gas is used by the purchaser, or for the purpose for which it is sold by the distributing companies, say?

A. Well, that's not quite a correct statement of it. In general, that's true, but if some of these pipe line companies have rates for some specific characters of use.

Q. Well, in respect to Natural Gas Pipeline Company it's fully true, isn't it?

A. I believe it is; I believe that's right, with respect to Natural Gas Pipeline Company. As I recall it, their rates are strictly demand and commodity combination.

Q. Makes no difference what the distributing company sells it for or what purchasing distributing company uses it for Natural Gas Pipeline Company gets the same price?

A. I believe that's correct.

Q. You are aware of the fact, are you not, that prior to 1938 the rates which Natural Gas Pipeline Company charged for the gas which was sold in interstate commerce for resale were far in excess of the rates that's now charged as fixed by the Federal Power Commission?

A. Yes, sir.

[fol. 300] Q. That same thing is true, is it not, as to the rates of Panhandle Eastern Pipeline Company?

A. Yes, sir.

Q. It is true as to the rates of Northern Natural Gas Company?

A. Yes, sir.

Q. It is true as to rates of the Cities Service Gas Company?

A. Yes, sir.

Q. So that these various pipe line companies were required by order of the Federal Power Commission to reduce their rates from the prices which were then being received?

A. Yes, sir, they were.

Q. And at that time the natural gas companies all insisted that there should be some allowance made for the real fuel value of that gas as compared with other fuels?

A. Yes, sir.

* * * * * * *

[fol. 301] Q. You know, do you not, that the addition of increased costs of gas over and above contract prices that are paid, which are beyond those estimated in former proceedings before the Commission, cannot be based on by the pipe line company through the distributing companies without proceedings before the Federal Power Commission?

* * * * * * *

A. I think that that would depend upon the immediate [fol. 302] status of the particular pipe line company with regard to their earning rate, but in general I would say that was a correct statement because most of them are in the position now of having to ask for rate increases.

Q. Without respect to that?

A. That's correct.

Q. You do know that there is a hearing of this nature before the Federal Power Commission now by Northern Natural, one by Panhandle Eastern and there is a rate proceeding by Natural before the Commission?

A. Yes, sir, I do.

Q. Now, all of the gas which Natural transports from the Guymon-Hugoton Field is the gas which is purchased from the Panoma Corporation, you know that to be true?

A. I'm not, I don't know that of my own knowledge.

Q. So far as you know——

A. So far as I k. w, that's right.

Q. You happen to know what that volume now is?

A. I think it's something on the order of about eighty million feet a day.

Q. I might say that the obligation is about seventy-eight million with about sixty-eight million being transferred. Your estimate of the obligation is approximately correct, at [fol. 303] any rate, isn't it?

A. Yes, sir.

Q. At any rate, it's the obligation which you had in mind?

A. Yes, sir.

Q. Now, do you know how much gas is being transported by Northern Natural from the Guymon-Hugoton Field?

A. No, I do not.

Q. At *any* rate, all of the gas which Northern Natural acquires, produced from the Guymon-Hugoton Field, is transported outside of the state. You know that they have no local——

A. I am sure.

Q. Sale——

A. I am sure that's correct.

Q. Now you know, do you not, that all of the gas which Panhandle produces from the field is transported outside of the state?

A. That's from the Guymon-Hugoton field?

Q. Yes, Guymon-Hugoton field?

A. By Panhandle Eastern?

Q. Yes. Of that which they produce?

A. No, I don't think——

Q. By the Cities Service?

A. No.

[fol. 304] Q. You don't know the facts about that?

A. No, I don't.

Q. You do know that the——

A. I do know that some of the gas the Cities Service market is not marketed in Kansas.

Q. Yes.

A. But now this other gas, I don't know.

Q. You don't know how it ties in with gas from other fields Cities Service has?

A. No.

Q. Now, the gas which Phillips produces from the Hugoton field and sells to Panhandle Eastern you know is all first transported to Texas and in Texas is sold to Panhandle?

A. Yes, sir.

Q. And then is transported out of Texas and through Oklahoma into other states?

A. Yes, sir.

Q. You know the same thing is true as to the gas produced in the Guymon-Hugoton field by Phillips and sold by Phillips to Michigan-Wisconsin. That's taken to Texas first and then transported through Oklahoma into other states?

A. Yes, sir, that's——

Q. Interstate markets?

[fol. 305] A. Yes, sir, that's true.

Q. And that's true, also, is it not, as to the production from certain other producers, for example, Skelly turns some gas to Phillips on the Michigan-Wisconsin delivery?

A. Yes, that could be true of that gas.

Q. And Stanolind gas?

A. Yes, that would be true of that gas.

Q. And the Kerr-McGee?

A. I think it would be true and also true of some Magnolia gas.

Q. As a matter of fact percentagewise, there's an extremely small percentage of the gas which is produced in the Guymon-Hugoton field which is used in the State of Oklahoma?

A. I believe that's right.

Q. Probably wouldn't be over one or two percent at the most?

A. Very small fraction.

Q. Are you familiar with the movement in and out of the state of gas produced in other fields in Oklahoma?

A. No, not as to relative amount, no. I do know something about the layout of some of the systems in Oklahoma in connection with some of the mines, but from the other Oklahoma fields in general, the greater part of it is marketed in Oklahoma.

[fol. 306] Q. Practically all, without reference to exact percentage, but the greatest portion of the gas from the other fields in Oklahoma is marketed and used for various purposes in the State of Oklahoma?

A. Yes, sir.

Q. And the prices in those fields are, in many instances, far less than 9.8262 cents?

A. I believe so.

* * * * * * *

H. W. Long, called as a witness, being first duly sworn, testified as follows:

Examination.

By Mr. Robinson:

Q. What's your name, please?

A. H. W. Long.

Q. Where do you live?

A. Guymon, Oklahoma.

Q. What's your connection with the Texas County Royalty Owners Association, Mineral Owners Association? [fols. 307-364] A. I am director of the Association and semi-official representative for them at these hearings.

Q. How many members of that Association do you have?

A. Something between five and six hundred, representing about sixty-five percent of the landowners in the county.

Q. And is this action prosecuted on behalf of all those owners?

A. Yes, sir.

Q. Are those owners out there satisfied to sell their gas at less than what it is worth?

A. No, sir.

Q. Those owners, are in controversy, certainly in that they have filed this application for an increased price?

A. They are very unhappy.

* * * * * * *

[fol. 365] Mr. A. M. Rippel, called as a witness, and having been duly sworn, testified as follows:

Examination.

By Mr. Williams:

Q. Your name is Mr. A. M. Rippel?
Q. You live at Bartlesville, Oklahoma?
A. I do.
Q. And connected with the Phillips Petroleum Company?
A. That's right.
Q. In what position?
A. Manager of the Natural Gas Department.
Q. How long have you been connected with Phillips Petroleum Company?
A. Since December 1st, 1925, almost twenty-seven years.

[fol. 366] Q. State briefly, Mr. Rippel, your educational background, the experience and other qualifications you have to testify in this proceeding in respect to the matter of producing, gathering and processing for sale of gas in the Guymon-Hugoton field.

A. My education, a college degree, Batchelor of Science in chemistry. That was in 1920. Shortly thereafter I joined the Empire Gas and Fuel training school course in Bartlesville. It-s now the Cities Service Company. Within that school for about a year and a half and then a job with the Empire Gas and Fuel in evaluation work. I resigned from there and went with Phillips on December 1st, 1925, and did evaluation work there, evaluation of oil and gas properties, until the latter part of 1937 when I was transferred to the Gas Division of the natural gas and gasoline department. One year later, in 1938, I was made assistant to the manager of the Gas Division. At that time it was Mr. Butler. Then, in 1943, I was made Manager of the Gas Division, and March 1st, 1951, the Natural Gas Department was created and I was made Manager, and I have been in that capacity up to now.

Q. Mr. Rippel does your company have properties to carry on operations in the Guymon-Hugoton field that would be affected by the proposed order in this proceeding?
A. Yes, they do.

Q. Are you familiar with the • properties and those operations?

A. I am.

[fol. 367] Q. How long have you been familiar with that field?

A. I have been familiar with the field since its discovery, sometime in 1928 or 1930. We acquired some acreage back in the early 30's, but we made our largest acquisition in the Guymon-Hugoton field, and the Texas Hugoton field, I believe it was in 1941 or 1942, somewhere about that time. And then we developed it afterwards, in '43 and '44.

Q. Have you been familiar with the development of the field and development of the market in the matter of negotiating for the sale of gas from that field?

A. Yes, sir. I negotiated both of the contracts in which they are selling residue gas from that field.

Q. Mr. Rippel, in order that we might understand each other, and that the Commission may understand this, when I refer to the Guymon-Hugoton field, you understand that I refer to the Texas County, Oklahoma portion of the larger area known as the Hugoton field.

A. That is my understanding.

Q. And when we refer to any portion of the larger field that's in Texas, we refer to it as the Texas Hugoton field.

A. That is correct.

Q. Mr. Rippel, in general, what is the nature of your company's operations in this area.

A. The production of gas, building wells and production [fol. 368] of gas; gathering of the gas at central points; extracting the liquid hydrocarbon and selling the rest intact into the market.

Q. Does your company purchase any gas in the area?

A. In the Guymon Hugoton field we purchase considerable gas——

Q. And what is the nature of your——

A. And we gather that gas and condition it for market and sell it.

Q. Is any of the gas that your company produces in the Guymon-Hugoton field sold at the wellhead?

A. No. There may be one exception to that, a well in

which we have a very small interest, in the townsite of Goodwell.

Q. Is that well operated by some other operator?

A. That's correct.

Q. Other than that, all of the gas produced by your company in the Guymon-Hugoton field is gathered, processed and sold in the form of residue?

A. That's correct.

Q. Elsewhere than at the wellhead?

A. That is correct.

Q. Mr. Rippel do you have a map that, in general, portrays and shows the extent and character of your company's properties in this area?

A. Yes, sir.

Mr. Sweet: If the Court please at this point——

* * * * * * *

[fol. 369] By Mr. Williams:

Q. Mr. Rippel, there is on the blackboard what purports to be a map that's been marked by the Reporter as Exhibit Number 30. I will ask you if that is the map to which you have just made reference?

A. It is. This map was prepared about a year and half ago, about the first of 1951 in connection with the Phillips Petroleum Company's case before the Federal Power Commission, and it shows the acreage which Phillips owned and the acreage which Phillips purchased gas; the gathering system, and the location of gasoline plants in the Guymon-Hugoton area and in the Texas-Hugoton area.

[fol. 370] Q. Just a moment, Mr. Rippel. Not to break your chain of thought, but would you indicate on that map where the division line is between the Guymon-Hugoton portion of the field and the Texas portion of the field?

A. That's the line with the, indicated here in white and slightly under the middle, and more definitely the line extends over to the right hand side of the map, and the north side of line is the Oklahoma and the south side of the line is Texas.

[fol. 371] Q. Let me ask you this question at this point: Does the presence of a state line at that point have any

significance so far as the physical characteristics of the producing formation or reservoir is concerned?

A. No, sir.

Q. It is purely a coincidence that the pool extends on two sides of the state line?

A. That is correct.

Q. Proceed.

A. At the time this map was prepared, about the first of 1951, it correctly portrayed the ownership; in other words, all of the blue acreage, both in the Guymon-Hugoton and Texas-Hugoton is dedicated to a contract which we have with Panhandle Eastern Pipeline Company, where we sell . . . where we gather and sell all the residue gas from that acreage.

Q. Is that acreage held under standard form oil and gas leases for your Company?

A. Yes. The yellow acreage on both the Guymon-Hugoton and Texas-Hugoton is acreage upon which largely now there are wells. The gas gathered from that acreage is dedicated for the life of production and committed to the Michigan-Wisconsin Pipeline Company. The red acreage in both Oklahoma and Texas is acreage which Phillips [fol. 372] owns and the residue gas therefrom is committed to the Michigan-Wisconsin Pipeline Company for the life of production. Now, there have been a few changes where we have farmed out some of this red acreage since the map was made. We didn't correct the map for this hearing. All of the gas is dedicated for the life of production.

Q. Would the changes to which you refer be substantial?

A. No, they're not substantial.

Q. Minor changes?

A. That's correct. We have, in Oklahoma, as of the first of the year, we own 173,000 acres and we purchase gas from 74,000 acres.

Q. In other words, the acreage shown on the map in blue and red, in the Guymon-Hugoton field, is approximately 173,000 acres?

A. That's correct.

Q. And the acreage shown in yellow on the Oklahoma side of the line is approximately 74,000 acres?

A. That's correct.

Q. How many wells has your Company drilled on its leased acreage in Oklahoma, the red and the blue?

A. 198 wells.

Q. How many wells are connected to your Company's [fol. 373] gathering system that are located on acreage of other operators from which you purchase the gas, in the Guymon-Hugoton field?

A. Sixty-two wells in May of 1952. These figures are as of May, 1952.

Q. I noticed, overlying the blue acreage on that map, there's some lines that are indicated in a light tan or brown. What do those lines indicate?

A. That's our gathering system, gathering gas from various wells from acreage dedicated to the performance of our contract with Panhandle Eastern Pipeline Company. The gas is gathered and brought to a central point through these main arteries to the Hansford plant, where it is processed and delivered to Panhandle Eastern Pipeline Company.

Q. Is the location of the Hansford plant to which you referred shown on that map?

A. Yes, sir.

Q. How is it indicated?

A. It is indicated by a yellow arrow and marked thereon is Hansford Plt.

Q. All the gas that's produced on the blue acreage is gathered through the gathering system indicated in brown and taken into your Hansford plant at the point indicated?

A. That's correct.

[fol. 374] Q. Now, in what way is the gathering system indicated on that map that gathers the gas taken into any other plant that you may have?

A. That is indicated in black and that gas is dedicated to the performance of the Michigan-Wisconsin Pipeline Company. That gas in black and this gathered over in this area comes over here and that goes to the Sherman plant which is adjacent to the Hansford plant, but is entirely separated as far as volumes of gas. The gas is processed but is gathered through lines as indicated in black and the residue delivered to Michigan-Wisconsin Pipeline Company.

Q. All right, now, Mr. Rippel, as of the last date you have

the figure, what is the volume of gas being produced by Phillips Petroleum Company from its own owned leases, or from the blue and red acreage, in other words, in the Guymon-Hugoton field?

A. Currently, for the month of May it was something like 43,000,000 cubic feet per day, but there was a strike going on during that time and the volume was down. I believe that our average production over the year will average 60,000,000 cubic feet a day.

Q. Measured by . . . measured at a 14.65 pound pressure base?

A. That's right.

[fol. 375] Q. Do you know what percentage that is of the total production from the Guymon-Hugoton Field?

A. Phillips' percentage of participation in the field is slightly over 14 per cent.

Q. Produced gas?

A. That's right.

Q. What volume of gas is produced from the wells in the Guymon-Hugoton field to which your Company is connected with which you purchased from others?

A. Currently, about 16,000,000.

Q. Then in all, the produced and purchased gas handled by Phillips through its gathering system in the Guymon-Hugoton field is approximately 18 per cent?

A. 18.2.

Q. Of the field?

A. Of the field.

Q. Total?

A. Total; correct.

Q. Now, referring to the gas that you purchased from other producers, the yellow acreage on the map, who are some of those producers?

A. Kerr-McGee Oil Industries; Stanolind Oil and Gas Company; Tascosa Gas Company; and the Texas Company.

[fol. 376] Those are the companies we are purchasing from.

Q. Is that gas purchased on a day-to-day contract or a long term contract, or on what basis?

A. All the gas that we purchase in this entire area, in the Guymon-Hugoton area, is for the life of production.

Q. Now, merely for information, your operations on the

Texas side of the dividing line are carried on in substantially the same way as those in Oklahoma?

A. That's correct.

Q. As part of the total operations in that area?

A. Just as the blue acreage on the Texas side here. Gas from this acreage is dedicated to Panhandle Eastern. We have a gathering system through here. The gas comes down through those smaller gathering lines and comes into the Hansford plant; similarly, the lines indicated in black gather gas for Michigan-Wisconsin delivery of residue through the Sherman plant.

Q. Now, Mr. Witness, although there's another witness present to testify in detail as to the processing of that gas, extraction of liquids in the plant, in general what occurs at that point?

A. At the Hansford plant all the gas which is gathered from the Guymon-Hugoton field is processed in the gasoline plant for the extraction of liquid hydrocarbons and the resi- [fol. 377] due is then delivered to Panhandle Eastern. At the Sherman plant, the gas which is gathered from the Guymon-Hugoton area is processed in the Sherman plant and after liquid hydrocarbon extraction the residue is delivered to Michigan-Wisconsin Pipeline Company.

Q. I'll ask you, Mr. Witness, if you have a photograph of the two plants to which you refer on which is indicated the delivery point of the residue gas to the two purchasers to whom you have made reference?

A. Yes, sir.

Q. I hand you an instrument which the reporter has marked as Exhibit 31 and ask you if that is the map to which you have made reference?

A. Yes, sir.

Q. What does that photo show?

A. It shows site of the Sherman and Hansford plants.

Q. Which——

A. At the west side of the Sherman plant, you can tell the west by the indication of the direction of north on the print, is the delivery point to Michigan-Wisconsin. On the east side of the Hansford plant is the delivery point to Panhandle Eastern. One might think that the Sherman and Hansford plants are all one plant. They are two sepa-

rate plants, although they are on one site more or less adjacent.

[fol. 378] Q. And the gas that enters those two plants is never commingled?

A. It's never commingled.

Q. I have handed another photo to the reporter which has been marked Exhibit 32 and ask if that's the photo of the same facilities, except taken from a different angle?

A. That is correct.

Q. I introduced that one, Mr. Witness, to have you indicate on that map to the Commission the location of the state line with relationship to these facilities.

A. The location of the state line is clearly indicated on this photo by a road. On the photograph it appears about an inch north of the directional north indicated.

Q. Running diagonally across the upper righthand portion of the photograph?

A. That is correct.

* * * * * * *

Q. Do you have with you, Mr. Ripple, copies of the contracts under which the residue gas is sold to Panhandle Eastern Pipeline Company and to Michigan-Wisconsin Pipeline Company?

[fol. 379] A. Yes, sir.

Q. I have handed to the reporter and have had him mark as Exhibits No. 33 and 34 two instruments, and I'll ask you to state what they are.

A. Exhibit 33 is termed Supplemental Contract Between Phillips Petroleum Company and Panhandle Eastern Pipeline Company, dated April 5, 1943, to which is attached as Exhibit A, the gas contract between Phillips Petroleum Company and Panhandle Eastern Pipeline Company.

Q. Did you participate in the negotiation of those contracts?

A. Yes, sir.

Q. Now, referring to Exhibit 34, state what that is?

A. This is an amendment, dated April 25, 1944, to the Supplemental Contract, Exhibit 33.

Q. And do those two Exhibits, No. 33 and 34, comprise

your contract with Panhandle Eastern Pipeline Company for sale to it of residue of the Hansford plant?

A. That is correct. This amendment also amended somewhat a processing contract we had with Panhandle Eastern; but, insofar as the sale of gas, it just amends the supplemental contract.

Q. I hand you what the reporter has marked as Exhibits 35, 36 and 37, and ask you to briefly state, if you will, what those Exhibits are.

A. Exhibit 35 is a gas contract between Michigan-Wis- [fol. 380] consin Pipeline Company and Phillips Petroleum Company, dated December 11, 1945. Exhibit 36 amends Exhibit 35, insofar as certain dates, price and acreage commitments are concerned. Exhibit 37 is a further amendatory agreement between Michigan-Wisconsin Pipeline Company and Phillips Petroleum Company, dated December 1, 1949, which makes further amendments as to acreage dedicated and price adjustments. All three of these contracts has to do with the sale of residue gas from the Guymon-Hugoton area dedicated to Michigan-Wisconsin shown on the map in red or yellow.

Q. In other words, Exhibits 35, 36 and 37 comprise the contracts for the sale of residue from the Sherman plant to Michigan-Wisconsin Pipeline Company?

A. That is correct.

Q. Does the map which you have on the board, which is marked Exhibit 30, show the lines through which Panhandle Eastern Pipeline Company and the Michigan-Wisconsin Pipeline Company take the gas from the plants and from the field?

A. Yes, sir. Panhandle Eastern's line is indicated in green, going in an easterly direction from our Hansford plant where it connects with a line coming from the Panhandle and goes on off the map to the northeast. The Michigan-Wisconsin transmission line is shown in green, starting [fol. 381] at our Sherman and goes in a northeasterly direction off the map.

Q. Does your Company, through stock ownership or otherwise, own an interest in Panhandle Eastern Pipeline Company or Michigan-Wisconsin Pipeline Company?

A. No, sir.

Q. Do you know what those Companies do with the gas that is delivered to and purchased by them?

A. I read it in their annual reports every year. They transport it and sell it into the market--some industrial sales and some locally in cities and towns served by them.

* * * * * * *

Q. Mr. Rippel, you have testified as to your Company's operations in the Guymon-Hugoton field. Is your Company's position unique with respect to that type of operation or other companies you know of that carry on similar operations in the Guymon-Hugoton field?

A. There are two other companies that gather and process their own gas and sell into interstate commerce. If they are buying any gas it-s not of any great volume. Two companies are Panoma and Plains Natural who produce and [fol. 382] gather their own gas and process and sell it into interstate commerce.

Q. Do you know, Mr. Rippel, do you have available, or can you obtain a figure that would show the percentage of gas produced in the Guymon-Hugoton field that is sold at the wellhead or on the lease where it is produced as distinguished from gas, such as in your case, which is gathered or gathered and processed and sold elsewhere than at the wellhead?

A. I don't have that figure. The only gas that I know that is sold at the wellhead is the sale of Cities Service Oil Company to Northern Natural Gas Company.

Q. The 4 per cent of field production that is purchased by Phillips from other companies is gas sold at the wellhead?

A. Yes, that is sold at the wellhead. Then, in Oklahoma, to my knowledge, we are the only people that buys, gathers and processes it.

Q. But, you don't have the other figure that I asked of gas in the field sold at the wellhead?

A. No, I don't have.

Q. Mr. Rippel, although there's another witness present to testify in detail as to the amount of return to the Company from the liquids extracted from the gas, do you, in your position as Manager of the Gas Department, know, ap-

proximately, how that income from liquids compares with [fol. 383] the cost of gathering and processing the gas?

A. Yes, the values of the liquids——

* * * * * * *

Q. What is that comparison, Mr. Rippel?

Mr. Culton: Just a minute. We object to the witness stating a conclusion as to the amount of receipts as compared to the amounts of expense. The Commission, I think, will want the testimony of someone in a position to detail the facts and we would be entitled to the exact facts to cross examine him on, rather than just an ultimate conclusion.

* * * * * * *

[fol. 384] Mr. Lange: If the Court please, we are going to object to receiving testimony of that nature for the additional reason the testimony of this witness shows that the extraction process is a Texas operation and he would be asking this commission to fix the margin of profit and loss on an operation outside the State of Oklahoma over which this Commission clearly has no jurisdiction; and for the further reason that we asserted in our original objection that [fol. 385] we believe that issue is beyond the province of this Commission.

Chairman Bond: The testimony should be confined to Oklahoma and the testimony should be confined to the facts. We have no jurisdiction in Texas.

Mr. Lange: That's right, and he testified to the extraction process, which is all in the State of Texas.

Mr. Williams: All that we ask of the Commission is to be permitted to show what the facts are, and then, when the others have all left, the Commission can then decide and we can debate.

Chairman Bond: You give us the facts, and we'll give you an opportunity to argue the case.

Mr. Williams: Now, this witness has testified that he knows how the income from liquid compares with the cost of gathering and processing and I'll ask him to state it.

Chairman Bond: And confine that fact to Oklahoma.

Mr. Williams: I am talking about Oklahoma, about operations in Oklahoma gas.

Mr. Adams: May I ask a question?

Chairman Bond: Yes.

Mr. Adams: Your processing, to which your present question is addressed, is wholly done in Texas?

Mr. Williams: That is correct.

[fol. 386] Mr. Adams: We, in behalf of Northern Natural Gas Company, object to the introduction of any evidence in this respect and ask that the Exhibits 33, 34, 35, 36 and 37 be stricken from the record. I believe the Commission said a moment ago when they were offered, I was informed, I didn't hear you, you asked if there were any objections.

* * * * * * *

Chairman Bond: The Commission will not strike the Exhibits at this time that have been received, but the Commission will limit the testimony to Oklahoma.

Mr. Culton: Might I ask a further question, Your Honor, in connection with my objection?

Chairman Bond: You may.

Examination.

By Mr. Culton:

Q. Mr. Rippel, the gas which is produced in Oklahoma goes into the plant in Texas in a common stream with gas produced in Texas, does it not?

A. Not in many instances. I think in one. I am not entirely familiar but there is a witness here that can answer that question in exactitude.

[fol. 387] Mr. Williams: I believe he testified that the operations in respect to the gas produced in Oklahoma now produced in Texas was a part of one overall operation.

Mr. Rippel: That is correct.

Mr. Williams: And the presence of the state line crossing through this field of production is but a mere coincidence.

Mr. Rippel: That is correct.

Further examination.

By Mr. Williams:

Q. The figures that you have testified to, though, generally, have dealt with only the gas produced in Oklahoma?

A. That is correct.

Q. And the figure that I am now asking you, or the fact that I will now ask you, refers to gas produced in the Guymon Hugoton field?

A. Produced and gathered.

Q. Now, you were asked the question as to fact . . . as to the fact as to how the income from liquids compares with the cost of gathering and processing the gas?

Mr. Culton: If the Court please, that's interstate because the operation has been shown to be outside the State of Oklahoma.

Chairman Bond: The Commission for the present is going to confine the operations to Oklahoma. We fix the wellhead [fol. 388] price in Oklahoma.

Mr. Williams: May I make this secure to the Commission at this particular point. Phillips Petroleum Company is not in this proceeding asking the Commission to fix any price for gas. As stated at the last hearing, we are not one of the Applicants in the proceeding. We are a producer and purchaser of gas in the field which will be vitally affected by any order that is made. And if there is any disapproval, in aid to the Commission in making whatever order the Commission sees fit to make, we are not suggesting to the Commission that it fix the price at any place other than at the wellhead in Oklahoma.

Chairman Bond: As long as you confine your testimony to the wellhead in Oklahoma, its immaterial to the Commission what you do with the gas or where it goes. It might go into Canada, it might go into any of the northern states, it might go into Texas. We want to know that this gas is produced in Oklahoma. We want to get jurisdiction of it at the wellhead, in Oklahoma.

Mr. Williams: I want to make this further point. The Phillips Petroleum Company does not sell its gas at the wellhead, and we will offer proof that less than 25 per cent

of the gas that's produced in the Guymon-Hugoton field is sold at the wellhead, with the result that when the Com- [fols. 389-391] mission makes a wellhead order it, of necessity, must prescribe how the price is to be arrived at in relation to the wellhead when it isn't sold at the wellhead. In one subsequent order, the Commission said that you meant to say that if it is not sold at the wellhead that it shall be the equivalent of the wellhead price. With this proof, it is an aid to the Commission to determine what would be the equivalent of a price at the wellhead in Oklahoma.

* * * * * * *

[fol. 392] Q. Is it a fluctuating figure, or is it constant?

A. It fluctuates throughout the season as to the price of gasoline and other products.

Q. You have a witness present who has the figures in that regard, as I understand it?

A. He has all the facts and figures.

Q. If that fact is true, Mr. Rippel, what then must Phillips Petroleum Company obtain for the residue gas that it sells to get what would be the equivalent of a price of 9.826 cents at the wellhead in Oklahoma?

* * * * * * *

[fol. 393] A. The same price for residue gas is being received per 1,000 cubic feet as the price which the Commission set at the wellhead.

Q. 9.8262?

A. 9.2262 cents per 1,000.

Q. I understand that you're not recommending to the Commission that it fix that price, but make your answer on the assumption that the Commission did fix the minimum price at the wellhead?

A. I so understood your question.

Q. Mr. Rippel, what would be the result in respect to the operations of your Company related to the production and gathering of its own gas, if this Commission made no effort to prescribe a wellhead price of 9.82 cents per m.c.f. at the wellhead and your Company was only able to obtain [fol. 394] the price to which you referred for the residue?

A. Insofar as Phillips' production is concerned, it would reduce any profit we are making now so far as some of our sales are concerned.

Q. Would you be making profit at all, or would it result in a loss?

* * * * * * *

(Witness continues.)

A. At the present time the price we are receiving for gas from Panhandle Eastern Pipeline Company would throw us into a loss.

Q. What would result in respect to gas you purchased from others in the Guymon-Hugoton field, gather and process and then resell residue, if you're not able to obtain for the residue the price equivalent to the prescribed wellhead price?

A. That would be a very definite loss. It would practically be a confiscation of our investment, insofar as gathering gas.

Q. Mr. Rippel, do you have a recommendation to make to this Commission as to what kind of order it should make if it concludes to increase the minimum wellhead price in the Guymon-Hugoton field?

[fol. 395] A. Yes, sir.

Q. Mr. Rippel, I've handed to the reporter an instrument to be marked as Exhibit 38. Is that the recommendation to which you have made reference?

A. Yes, sir.

Q. Will you please state to the Commission what that recommendation is?

A. Do you want me to read it into the record?

Q. Read it, if you wish.

A. It is therefore ordered by the Corporation Commission of the State of Oklahoma as follows:

1. No gas shall be produced from any well located in the Guymon-Hugoton field of Oklahoma except at a price of not less than 9.8262 cents per thousand cubic feet if sold at the wellhead or on the lease or drilling unit from which produced, or a price equivalent to not less than 9.8262

cents per thousand cubic feet at the wellhead if sold off the lease or drilling unit or otherwise utilized. If the gas is sold during or upon conclusion of gathering without being processed for the extraction of liquid hydrocarbons, the price shall be not less than 9.8262 cents per thousand cubic feet plus the reasonable cost of gathering. If the gas is processed for extraction of liquid hydrocarbons and sold [fol. 396] during or at the conclusion of gathering, the price for the residue gas shall be not less than 9.8262 cents per thousand cubic feet.

2. No gas produced from the Guymon-Hugoton field shall be gathered by a gatherer who purchases the same in the field of production and resells the same during or at the conclusion of gathering unless the gatherer obtains therefor a price not less than 9.8262 cents per thousand cubic feet plus the reasonable cost of gathering; provided, that if the gas so gathered and sold is processed by the gatherer for the extraction of liquid hydrocarbons during or at the conclusion of gathering, the price for the residue so sold shall not be less than 9.8262 cents per thousand cubic feet.

3. The minimum price specified above for the sale of residue gas after processing during or upon conclusion of gathering contemplates that said residue gas will contain at least 950 British Thermal Heating Units per cubic foot of gas saturated with water vapor at standard conditions. In the event such residue gas contains less British Thermal Heating Units than specified above, the minimum price for such gas shall be in the proportion that the British Thermal Heating Units of such gas is to 950 per cubic foot.

4. For the purpose of this order a cubic foot of gas shall mean a volume of gas contained in one cubic foot of space [fol. 397] measured at a pressure of 14.65 pounds per square inch absolute at a temperature of sixty degrees Fahrenheit.

5. This order shall become and be effective this (blank) day of (blank), 1952.

Q. Mr. Rippel, in order for making no mistake, and all of this may be repetition, but as I understand it, you're not recommending in this recommendation that the Commission increase the welihead price to 9.8262 cents per m.c.f., but

that if it does see fit to so increase it, then the form of the proposed order as you have read it would be your recommendation?

A. That is correct.

Q. That is how the Commission could do what it is asked to do and at the same time protect producers and gatherers, such as Phillips Petroleum Company and others similarly situated?

A. That is correct.

Q. As I understand your reading of this proposed order, Paragraph 1 would relate to gas that is produced, gathered and processed by the producers?

A. That is correct.

Q. Paragraph 2 would relate to a situation where a gatherer in Oklahoma purchased the gas at the wellhead, gathered it, processed it, and at the conclusion of gathering, sold it?

[fol. 398] A. That's correct.

Q. Now, in Paragraph 3, I note you make reference to a minimum of 950 British Thermal Units per cubic foot of gas. What is the significance of the 950?

A. Well, that is a measure of heating value of gas. As the Hugoton field has been developed, also the Guymon-Hugoton field, there has been gas found lesser than 950 British Thermal Units. There must be some standard. I have in mind one well that we tested, Phillips tested, several years ago in the eastern part of the Guymon-Hugoton field, I believe was 888 b.t.u.'s. Well, it just has such a higl. nitrogen content, which, in my opinion, has the same price or what's a fair heating value for gas. The contracts which Phillips have made in the last 5 or 6 years, the purchasers have been agreeable to a price of 950 b.t.u.'s.

Q. Having 950 b.t.u.'s is gas acceptable as pipeline gas?

A. It has been accepted by pipelines, and is being accepted. I believe Northern Natural, Plains Natural Gas Company accept it at 950 b.t.u.'s.

Q. Does that involve substantial volumes of gas.

A. Yes, I believe approximately 16,000,000 cubic feet a day.

Q. And the contracts negotiated by Phillips Petroleum

Company in the past few years were on a 950 b.t.u. basis?

A. That is correct.

[fol. 399] Q. I notice in this recommendation you say "saturated with water vapor at standard conditions." The phraseology "standard conditions" has an accepted meaning, does it?

A. Yes, sir.

Q. Will you state what that is?

A. Gas measured from 16 degrees Fahrenheit and at a pressure equal to that exerted by 30 inches of mercury at 32 degrees Fahrenheit.

. . . . . .

Examination.

By Mr. Culton:

Q. Mr. Rippel, did I understand you to say that on Exhibit 30 the blue area represents gas that was delivered by contract to Panhandle Eastern?

A. That is correct.

Q. The brown lines with circles in the center of each section represent portions of gathering systems of Phillips?

A. That is correct.

[fol. 400] Q. The primary lines have short lines leading into them on each side?

A. That's right.

Q. Either I didn't make my question clear or I misunderstood your answer as to the commingling proposition. It's true, is it not, that the state line is approximately at that point? This point here?

A. That is correct.

Q. And gas . . . for example, there's a line from the west into the Sherman plant, I believe that's Panhandle Eastern——

A. Hansford plant.

Q. Hansford plant . . . there's a line running from the west, that's about some, how far, 15 miles, roughly?

A. It's about that length.

Q. And all along that line gas is brought from Oklahoma into Texas?

A. That is correct.

Q. That is a primary trunk gathering line, is that right?

A. That's correct.

Q. Now, the same thing is true, is it not, only with a lesser number of wells, on the primary lines running from the east into that same State? You have several wells connected across the line?

[fol. 401] A. That is correct.

Q. So that with those two lines, gas is brought from the Guymon-Hugoton field down through the primary gathering lines in the Texas portion of the Hugoton field; in addition to that, you have three primary trunk lines which serve Oklahoma exclusively?

A. Yes. If I understood your question, you said that all the gas was commingled and I had definitely in mind that there was one where it is not, which is the Michigan-Wisconsin gathering system over here. I'm really not too familiar with all the details, yet I didn't understand you to say that you limited your question to the gas of the Panhandle Eastern.

Q. Well, it doesn't make any difference because neither one of us is trying to get away from the factual situation. Now, on these primary lines coming in from the west and the east to which production from wells up in Oklahoma is delivered, you also take a large volume of gas from wells produced in Texas and delivered . . . and deliver it into the same gathering lines that sold the gas produced in Oklahoma?

A. That is correct.

Q. And all of these trunk lines get together at Hansford station?

[fol. 402] A. Yes, sir.

Q. Then, in addition to that, you have a line which serves exclusively wells in Texas, leading into the same gasoline plant?

A. That is right.

Q. These trunk lines to which I have referred, come into the plant and when they get to the plant the gas from all those lines is commingled into a common stream or streams without relation as to whether the gas is coming from Oklahoma or from Texas?

A. I believe, eventually, it gets into a common header. I really don't know. It's commingled to some extent, there's no question about that.

Q. In the trunk lines coming from the west and from the east, the gas produced in Oklahoma and the gas produced in Texas goes into a common stream?

A. Correct.

Q. And, as a common stream, comes into the gasoline plant?

A. Right.

Q. And, somewhere in the gasoline plant, either at the entrance or later, that gas is commingled with gas that comes in from lines exclusively serving Texas and from lines exclusively serving Oklahoma?

[fol. 403] A. The only thing I can say is that I presume it does. There's a witness here who can answer you very meticulously.

Q. Well, you were vouching for the map.

A. I was vouching into the gathering point at the plant and with its connection at the header there—I really don't know.

Q. Well, now, there's at least one of those trunk lines, is there not, which handles gas that has a substantial amount of sulphur content?

A. In the Hansford plant?

Q. Yes. Or is that all sweet gas at the Hansford plant?

A. There is some sour gas in this area here——

Q. That is to the east?

A. To the east that goes to the Hansford plant, but it is not treated.

Q. It is not treated? There's not a sufficient amount of it to keep the commingled gas from being——

A. It blends out.

Q. It blends with the sweet gas so that the entire commingled mass is of a quality which is sufficient to satisfy your contract with Panhandle?

A. That is correct. It's more a—it's more or less a negligible amount of sour gas.

Q. In that gasoline plant, do you extract a certain amount [fol. 404] of liquefiable hydrocarbons from the gas so

as to bring it within the provisions of your contract with Panhandle?

A. Yes, sir.

Q. And you have a leeway on the b.t.u.'s, do you not?

A. Yes, sir.

Q. What is your leeway?

A. Down to 960 b.t.u.'s per cubic foot of dry gas.

Q. That's the minimum. What's the maximum?

A. I'll have to look at the contract. I don't recall if there is. There may be.

Q. Well, we can get that later. What is the b.t.u. content of most of the gas that goes into the Hansford plant—raw gas?

A. I don't have that figure. It was running from somewhere around 1015-to-1020.

Q. Have you determined the amount of liquids you take out, the Gasoline Department? I mean by "you", the Phillips Petroleum Company. I'm sorry. You do not always take the same percentage of liquids out of the same b.t.u. gas, do you?

A. I do not know.

Q. What is done with those liquids that you take out at the Hansford plant?

A. I believe they're taken to Borger. I don't handle that.

Q. You handle the products line at Borger, do you not? [fol. 405] A. Yes, sir.

Q. And those liquids there are removed.

A. They are.

Q. And you don't sell them in the form you take them out?

A. I can't answer that. I don't know.

Q. Well, don't you know, in your position, that those liquids are used in blending and in various manufacturing processes in the Borger area?

A. I really don't know, Mr. Culton. There's a man here who can explain all that.

* * * * * * *

Q. The residue gas which remains after these liquefiable hydrocarbons are extracted at the Hansford plant, the residue gas is all delivered at the outlet of the plant to Pan-

[fol. 406] handle Eastern Pipe Line Company under the contracts which you have heretofore identified?

A. Yes.

Q. And do you know that Panhandle Eastern puts that residue gas into its interstate pipeline leading to Missouri, Illinois and Michigan and other states to the East?

A. That is correct.

Q. And do you know that the Panhandle Eastern does not have any sale outlet for that pipeline after that gas has arrived over to the State of Oklahoma?

A. No, I really do not know that.

Q. Well, you don't know then, do you?

A. No, I know they make some sales to pump stations. Whether there is any in Oklahoma, I don't know.

Q. Well, it doesn't amount to anything then in volume?

A. I would say the volume doesn't amount to any large volume, I just don't know.

Q. Now, getting to the Michigan-Wisconsin area, the red area, the big area, represents leases that, at the time the map was prepared, all belonged to Phillips?

A. Yes, sir.

Q. And the yellow acreage represents leases owned by other producers but who had dedicated those leases to [fol. 407] Phillips for the life of the production?

A. Yes, sir.

Q. I believe you stated that since this map had been made there has been a few farm-outs?

A. Yes, sir.

Q. To whom were those farm-outs made?

A. Kerr-McGee Oil Industries. Are you speaking of Guymon, Oklahoma?

Q. The Guymon field is what we're talking about.

A. Kerr-McGee Oil Industries.

Q. Is that all in the Guymon field?

A. Yes, I think 10 wells are all they had.

Q. When were those farm-outs made?

A. I think last spring sometime.

Q. Since the Commission entered its order—at any rate, it's been more than last spring?

A. Yes, that's right.

Q. The farm-out carried the right of Phillips to purchase that gas and pay for that gas during the life of production?

A. Yes.

Q. And did those contracts set forth a price that Phillips would pay for that gas?

A. I'll have to get the contract to——

[fols. 408-410] Q. Well, you don't know?

A. No, I don't know. I know it set forth a price, but what it was is what I don't know. I'm sure it set forth a price.

Q. Now, the gathering system for the yellow acreage and the pink acreage is indicated by the black lines on Exhibit 30, I believe?

A. That is correct.

Q. And all of the pink acreage and all the yellow acreage is dedicated by Phillips to this contract with Michigan-Wisconsin Pipe Line Company?

A. Yes, sir.

Q. It's true, is it not, that with respect to that acreage that there are instances where gas in Oklahoma wells and gas from Texas wells go into the same trunk line?

A. Through the same main gathering line, yes.

Q. That's what I mean by trunk lines; for example, the one I'm pointing to here.

A. Yes.

Q. The one to the left goes to the Sherman plant. The one to the west, however, runs quite a good many miles within the same section before it gets into the plant.

A. Yes, there is 8 or 10 miles there.

* * * * * * *

[fol. 411] Q. Well, I just wanted to find out what you know about it. The Sherman plant, which you have stated is located in Texas, is only about a quarter or a half-mile south of the boundary, something on that order. After the liquefiable hydrocarbons are extracted from the raw gas in that Stratford plant and the Sherman plant, the residue is delivered to the Michigan-Wisconsin Pipeline Company under the contract which you heretofore referred to?

A. Yes, sir.

Q. And from that point, Michigan-Wisconsin transports it a mile and three-quarters to the state line and then

through Oklahoma, then through other states to the state of Michigan and the state of Wisconsin, with some sales probably in Missouri and Kansas. That is correct, isn't it?

A. That is correct.

[fol. 412] Q. There is——

A. Did you say a mile and a quarter?

Q. A mile and three-quarters, approximately. I think its 1.74. There is no sale that you know of made by Michigan-Wisconsin in the State of Texas or Oklahoma?

A. Not that I know of.

Q. And you negotiated, I believe you stated, both the contract of Panhandle Eastern and the contract of Michigan-Wisconsin?

A. I assisted in it.

Q. And at the time the contract of Panhandle Eastern was made, you were very familiar with the Panhandle Eastern contract—where their lines ran and so on?

A. Yes, I knew where their lines ran.

Q. And it was your definite understanding, was it not, at that time, that the gas that you were to sell, the residue gas, to Panhandle Eastern was to be transported by Panhandle through its pipeline system to its markets in Missouri, Illinois, Michigan and Ohio and other eastern points?

A. That was certain, yes.

Q. And that contract, I believe, was made in 1943?

A. Correct.

Q. And at that time, Panhandle obligated itself to obtain [fol. 413] certificates of convenience and necessity from the Federal Power Commission that would enable it to have the capacity to transport your gas, along with the other gas, to those eastern points?

A. That is correct.

Q. And, in fact, that is recited in the contract, isn't it?

A. Yes, sir.

Q. And the contract was not to become effective unless and until Panhandle should be able to get that certificate of convenience and necessity from the Federal Power Commission for that transportation and sale? That's correct, isn't it?

A. That's correct.

Q. Now, at the time you entered into that contract with

Panhandle, there was no other place you could sell that gas, was there?

A. I wouldn't say that. It was at that time, though, the best market we had available.

Q. You didn't have any other market available, did you?

A. I believe we did.

Q. Where?

A. We could make one.

Q. Under the laws of this State?

A. Well, I don't know what year Cabot went into——

[fol. 414] Q. Well, if you had any other market, it would have been nothing but a carbon black market?

A. At that particular time, I believe that is correct.

Q. You bought this acreage principally in 1941 and 1942, I believe you stated?

A. Our large entrance into that area and from then up-to-date.

Q. How many wells did you have in the blue colored area when this contract was made in 1942?

A. I don't recall. Very few.

Q. If you had been able to get the right to operate a carbon black plant there, the value of gas at that time, of carbon black manufacture, was far less than the price you obtained from Panhandle under that contract?

A. At that particular time, it was. Two years later, it wasn't.

Q. I'm talking about the time you made the contract, you considered that an exceptionally good contract with the company you negotiated with?

A. It was at the time.

Q. It was a contract that the parties entered into in good faith, with the full intention of carrying it out?

A. No question about it.

[fol. 415] Q. Now, you also participated in the negotiations with Michigan-Wisconsin Pipe Line Company upon the sale of gas—by the way, you selected both the point of delivery for both the Michigan-Wisconsin sale and the Panhandle sale, didn't you?

A. It was agreed to between the parties.

Q. But you were the one who made the selection?

A. It was more central in the field.

Q. And Panhandle built a line about 15 miles long to enable it to take that gas, didn't it?

A. Yes.

Q. The Michigan-Wisconsin Pipe Line Company at the time it entered into the contract in 1945, I believe, that Company had no pipeline at all, did it?

A. That Company did not.

Q. That contract was entered into with the intent of both Phillips Petroleum Company and Michigan-Wisconsin Pipe Line Company that Michigan-Wisconsin Pipeline Company would obtain a certificate of public convenience and necessity from the Federal Power Commission to authorize it to construct the pipeline extending from the point to which you were to deliver gas to it up into the states of Michigan and Wisconsin, with possibly some sale in Missouri?

[fol. 416] A. Yes, sir.

Q. And the contract was contingent on Michigan-Wisconsin obtaining that certificate and building that line?

A. That is correct.

Q. So, at the time that contract was made, it was the intent of both parties, within your knowledge, that this gas would be used for the interstate pipeline and transported into the states to which I have referred?

A. That is correct.

Q. That was the intent of both parties at the time of signing the contract?

A. Yes.

Q. The Michigan-Wisconsin gas approximately the same, the natural gas, the residue of which is delivered to Michigan-Wisconsin, has roughly the same b.t.u. content at the natural gas from which you deliver the residue to Panhandle Eastern?

A. Approximately, yes.

Q. I know that it varies over the field, of course, but roughly it would be about——

A. You mean the residue gas?

Q. I'm talking about the natural gas, before extraction.

A. I believe that the gas from Michigan-Wisconsin has a slightly lesser b.t.u. content and when you consider the

[fols. 417-424] Texas Hugoton and the Oklahoma Hugoton, its about the same.

* * * * * * *

[fol. 425] Q. Phillips Petroleum Company is one of the largest, if not the largest, extractors of liquifiable hydrocarbon in the country, are they not?

A. That is correct.

Q. And it has been in the business of extracting liquids ever since they have been in the business?

A. Well, I can't answer that with exactitude. I believe our first gasoline plant was built in 1918, '20, or '21, or something like that.

Q. But as Phillips grew, particularly during the time you have been with the company, it has been a very great producer of natural gasoline and other liquifiable hydrocarbons?

A. Yes, sir.

Q. Those hydrocarbons have varied very greatly in price during that period?

A. Yes, sir.

Q. And that has varied from time to time from about a cent a gallon to eight and nine cents a gallon, has it not?

A. In a general way that may be correct. That's a matter that can be determined.

[fol. 426] Q. Now, the prices of those liquids change very much during the years, there being difference in prices in the summer time and the winter time?

A. That's right.

Q. And you *guage* the amount of liquid that you will take out of the raw gas, by whether or not some of those liquids would have more value to you in the residue stream than as extracted liquids.

A. When you say 'you', I presume you are referring to——

Q. I am talking about Phillips Petroleum Company all the time when I say 'you'.

A. I would assume that they go through that calculation. Part of it would be reasonable to assume.

Q. But you don't know what their practice is?

A. I really don't.

Q. And you don't know, or do you know the difference in price?

A. Yes, I know that fluctuates periodically.

Q. How many galions per m.c.f. does Phillips extract from the raw gas in these two plants we are talking about?

* * * * * * *

[fol. 427] Q. Now, Mr. Rippel, if I understand the map correctly, the blue area represents acreage upon which your company holds leases?

A. That is correct.

Q. And on the blue area Phillips does all the producing of natural gas. You drill your own wells and do your own producing?

A. That is correct.

Q. And under your contract with Panhandle Eastern, you produce, gather and transport all of that gas to your extraction station plant in Hansford County, Texas, is that correct?

A. No, that is not correct. We produce and gather the gas from central points in the field, process it and deliver the residue——

Q. Where is the central point?

[fols. 428-432] A. Hansford County, Texas.

Q. You do produce it, gather it, and transport it to Hansford County, Texas?

A. There's *is* no transportation involved, in my way of thinking.

Q. You get it over there, your company gets it over there?

A. We gather it to central points.

Q. And then you run it through your extraction plant?

A. Yes.

Q. Extract and retain the liquifiable hydrocarbons?

A. Yes.

Q. And under your contract you sell only the residue gas to Panhandle Eastern at the outlet point of your extraction plant in Hansford County, Texas?

A. I believe that's all. At one time we sold a little propane. I don't know whether that's sold right now, or not.

Q. Substantially, all you sell them is the residue gas?

A. That is correct.

Q. And that sale is made at the point for immediate transportation in interstate commerce?

A. Yes.

* * * * * * *

[fols. 433-434] Examination.

By Mr. Culton:

Q. Mr. Rippel, in all of the operations by Phillips Petroleum Company in the production of this gas, without bringing in the theoritical or technical or actual distinction between production, transportation and gathering, but in the moving of this gas, shall we say, from the point where it's produced down to the gasoline plant, Phillips is very careful to waste no gas, isn't it?

A. Yes, sir.

Q. And Phillips does not commit waste, in your opinion, physical waste, in the production of that gas or in the moving of that gas down to the gasoline plant. That's correct, isn't it?

A. I don't know of any gas being wasted.

Q. You fully comply with the Commission's regulations for the prevention of waste, physical waste, do you not, or at least try to?

A. Yes, we try to comply with all the Commission's rules and regulations.

Q. And there would be no difference in your efforts to do that if the price was four, four and half, nine or fifteen cents, is that correct?

A. That's correct.

Mr. Culton: That's all.

* * * * * * *

[fol. 435] Examination.

By Mr. Williams:

Q. I believe you testified this morning, Mr. Rippel, taking into consideration the quality and character of the gas in the Guymon-Hugoton field, in your opinion, the 9.82 price

for the residue would be the equivalent of that price at the wellhead?

A. That's correct.

Q. Now reference has been made here to the use of a single gathering system, and a single plant to gather and process the gas from both Oklahoma and Texas acreage that is sold to the Michigan-Wisconsin Pipeline Company. Was that a part of the deal and the consideration for the development of that market for the gas that goes to the Michigan-Wisconsin Pipeline Company?

A. It definitely was. It was an agreement that the gas was dedicated to the performance of the contract and kept separate and not com-ingle with the other gas interests in that area, produced and sold in that area. It would require us to have a separate gathering system from the acreage dedicated to the performance of the Michigan-Wisconsin contract and a separate gasoline plant.

Q. Then the same thing was true at the time the Panhandle Eastern deal was developed?

[fols. 436-438] A. The same thing is true of the Panhandle Eastern contract.

Q. Using a single gathering sources for gas both in Oklahoma and Texas, going into the single market?

A. That is correct.

Q. Earlier, in answer to Mr. Culton's question, as to the price payable to the Texas Company, Stanolind Oil and Gas Company, Tascosa and Kerr and McGee, you said, I believe, you didn't know offhand those contract prices, but you would procure that information?

A. Yes.

Q. You do know, as a matter of fact, that all of those companies are being paid presently at the rate of seven cents per thousand cubic feet, under the Commission's order?

A. That is correct.

Q. And you are willing, though, to supply the information with respect to what the contract price?

A. The information as to what the contract was, and if there has been a written agreement as to seven cents, I know we are paying them all seven cents.

* * * * * * *

[fol. 439] Mr. George P. Bund, called as a witness, and having been duly sworn, testified as follows:

Examination.

By Mr. Williams:

Q. State your name.
A. George P. Bund.
Q. Where do you live, Mr. Bund?
A. Bartlesville, Oklahoma.
Q. You are employed by Phillips Petroleum Company?
A. I am.
Q. What is your position with that company?
A. I am Manager of the Natural Gasoline Department.
Q. State briefly your educational background and your experience and qualifications to testify in this hearing with respect to the matter of handling and processing of gas, particularly as related to the Guymon-Hugoton field?
A. I have a B. S. degree in mechanical engineering from the University of Kansas. I have been participating in the oil and gas business since 1916. I have been employed by Phillips since 1921. In that period I have been in the natural gas and gasoline end of the business, and I was manager of the natural and gasoline department beginning about 1930 until March, 1951 when the department was devided, and since that time I have been manager of the Natural Gasoline Department.
[fol. 440] Q. You are Manager of the Gas and Gasoline Department during the period that the Guymon-Hugoton field was developed?
A. Yes, sir.
Q. And the sales of gas, which were testified to here, were negotiated?
A. Yes, sir.
Q. You heard Mr. Rippel's testimony with reference to properties and operations of the Phillips Petroleum Company in that field and area?
A. Yes, sir.
Q. Are you, yourself, personally familiar with those properties and operations?

A. Well, I was at the time they were procurred. I haven't paid much attention to it the last year or so.

Q. The last year or so?

A. Yes, sir.

Q. During the last year or so your functions have included what, in relation to this field?

A. The operation of the natural gasoline extraction plants and the disposal of the liquid products from these plants.

Q. That included supervision of the plants that have been referred to as the Sherman plant and the Hansford plant?

A. That's right.

[fol. 441] Q. In your duties, as I understand it, the gas comes under your supervision at the time it reaches those two plant?

A. Yes, its in our possession, so to speak, going through the plant.

Q. Will you briefly outline for the Commission, Mr. Bund, just what occurs as that gas reaches the plant, or plants, if there is a variance in the two plants, and what occurs to it in the plant, what you do to it?

A. Well, simply stated, the gas in the Hansford plant enters the plant passing through an operation known as scrubbers for removing any contained materials in it, and from there it passes through absorbers where the gas is contacted with an absorbing oil for the purpose of extracting the liquefiable factors. The gas passes from these absorbers as residue gas, a part of which is used in the operation of the plant, the balance of which, along with a few other factions, is passed through dehydrators where the water vapor content of the gas is reduced and from that it is delivered to the purchaser.

Q. In the case of the Hansford plant, that's the Panhandle Eastern Pipeline Company?

A. That's right.

Q. All right, go ahead.

A. The absorbing oil is processed after contacting the raw [fol. 442] gas the absorbed hydrocarbon vapors driven therefrom and subsequently, mostly reduced to a liquid form by cooling. The liquid product is known as raw nat-

ural gasoline and is disposed of from the plant in that form. Such vapors as such may not be condensed by cooling, as the oil is processed, usually reenters the residue gas stream from absorption and become a part of the gas delivered to the purchaser.

In the case of the Sherman plant, the gas enters the plant and again passes through scrubbers. Part of the gas which contains more hydrasulphite is exposed to the treating facilities which removes the greater part of that sulphite and that treated gas, plus sweet gas, which enters the plant, is then passed through the absorbers of the plant in the same manner as in the Hansford plant, and the residue gas from those absorbers, in this case, passes more of it directly to the purchaser, which, for the Sherman plant, is the Michigan-Wisconsin Pipeline Company. Part of the residue gas, however, again is used for fuel for operating the plant facilities.

Q. Is the gas coming into the Hansford plant and the gas coming into the Sherman plant commingled at any time?

A. The gas with respect to each of the two plants is at no time mingled. The two supplies of gas are entirely separate.

Q. Now you say that the liquids extracted from the gas is [fol. 443] what is commonly known as natural gasoline?

A. Raw natural gasoline.

Q. Raw, natural gasoline?

A. Yes.

Q. What is done with the liquids so obtained so far as the plants are concerned?

A. The raw natural gasoline is pumped from the plant through a pipeline to a point in the vicinity of Borger, Texas where it is subsequently processed in various forms for the markets to which it ultimately goes.

Q. How far distant is Borger, Texas from the plants which you made reference?

A. In the order of seventy miles.

Q. Is the raw natural gasoline extracted from the gas at the two plants, in that form, a saleable or useable product?

A. I know of no use to which such raw natural gasoline

is equipped, in a consumer sense. It is a raw material which has to be further refined to go into the normal commercial markets.

Q. And that further refinement, occurs, I believe you say, at Borger, Texas?

A. In this case yes.

Q. What principal elements are obtained from that raw stream?

A. There are a variety of hydrocarbons contained in it, but generally speaking for market purposes, it is sub- [fol. 444] divided into a grade of natural gasoline labeled 2670 natural gasoline into surplus butanes over and above 2670 and propane. It may also contain some residuals as hydrasulphide, some ethane and methane, but the three commodities I mentioned are the particular market components.

Q. Do you recall the volume of liquid hydrocarbon that is recovered per thousand cubic feet of gas on each of the two plants?

A. Well, I don't recall exactly. They vary from time to time, but the month of March, for instance, this year, at the Hansford plant the average total of the raw natural gasoline would amount to about 78,000 gallons a day. In the case of the Sherman plant about 189,000 plus gallons a day.

Q. Do you have that figure in terms of number of gallons per thousand cubic feet of gas?

A. Yes, sir.

Q. Processed?

A. The extracted product, in the case of the Hansford plant, represented .809 gallons per thousand cubic feet. In the case of the Sherman plant .527 gallons per thousand cubic feet.

Q. Now comprised in the stream of raw, natural gasoline, handled from the Hansford plant, you have the figure as to [fol. 445] butane and propane?

A. Yes. In the case of the Hansford plant the 2670 extracted comparable in raw gasoline is .35, approximately, per thousand cubic feet. In the case of butane it was .26 gallons per thousand cubic feet. In the case of propane it was .25 gallons per thousand cubic feet, approximately.

the composite making up about 8/10 gallons of raw gasoline extracted per gallon, per thousand cubic feet.

Q. Now the information as to the Sherman plant.

A. In the case of the Sherman plant for this particular month the 2670 component of the raw gasoline extracted, was 34/100's gallons per thousand cubic feet. The butane over and above that was 14/100, approximately, gallons per thousand cubic feet, and the propane was .5 gallons per thousand cubic feet, making a composite of about five and a quarter, about five-two-five gallons per thousand cubic feet in the composite figures.

Q. Mr. Bund, do you have a means, or a basis, of evaluating the value of the raw, natural gasoline as it is extracted from the plant?

A. Yes, the accounts are kept on a separate basis, and the plant credited with the raw natural gasoline in each instance which it delivers, in this case, to the point near Borger, [fol. 446] Texas. The composition of the raw gasoline is determined continuously by each month, composite delivery, and the 2670 content thereof is credited in the plant at the average low quotation as published in the Oilgram, which is a market quoting medium in the industry, less one-eighth of a cent a gallon. The deduction of one-eighth cent in our accounting is to compensate for the physical losses for handling the raw material during the course of carrying the various components on the market, at least partial compensation to the agency which must do the treating and loading and selling of the product. The butane above the 2670 is credited to the plant at the low average price at which the company buys butane in the area. If at the time it is buying low butane the plants are still credited with one and half cents per gallon for any such excess useage. We have, from time to time, in our buying of butane at one and half cents a gallon, or less, so it represents an approximation of what the overall average might be. In the case of propane, the plant is credited with the weighted average price of the sales received by the processing storage account near Borger where the materials are refined for the market, less one-quarter of a cent per gallon. The deduction again is to offset the physical losses in handling propane, at lease some part of the cost

of processing it and treating it and preparing it for market. [fol. 447] The deduction in the case of propane is somewhat larger than the case of 2670 gasoline because propane is a much more loss on material, and, than 2670, and losses, generally speaking, are higher in the handling of it, in the processing and in the storing and loading it. These prices are used in the cases of these two plants, in the Sherman and Hansford plants, and samiliar values are arrived at accordinng to the location where all other plants of the company are located, or operated.

Q. In your opinion, Mr. Bund, is that basis of pricing, or evaluating, representative of the fair value of the products delivered from the two plants?

A. Well, its an approximation of what the values would be if the products were, if there was equipment at these plants to completely process the raw material, to store it and condition it for market and to ship it. In general, we believe, somewhat favorable to the plant, in that the cost of handling the material is, on the average, somewhat higher than the amounts allowed in this pricing basis.

Q. It-s a price basis of long standing, before any order of this Commission, before they fixed the price of gas?

A. Yes. This basis has been used for quite some years.

Q. Although there is another witness here, Mr. Bund, who has the exact figures, as to the income from the liquids, [fol. 448] do you generally know how that income from liquids compares with the cost of gathering and processing this gas?

A. I don't recall the exact figures, but the cost of getting the gas into the plant and of extracting the liquids and materials from the gas and conditioning and delivering it to the purchaser is about in balance with the income credited to the plant from the liquid products produced in the raw stream.

Q. I understand that the income, or rate of income, may vary from time to time with the variance in the market value of the products. Is that right?

A. Yes. The prices of the liquid products vary from time to time. The costs of operation, of course, vary from time to time, depending on maintenance and other variable expenses, and also they vary with the volume of gas that

may be processed from time to time. That is not a constant.

Q. Would you say that the quality of the gas varies somewhat too, depending upon the combination of wells, which at one time or another may be supplying the gas to the plants?

A. Yes, sir.

Q. And when you testified a few moments ago that roughly speaking, they were in balance, you mean by that from the average?

[fol. 449] A. Yes, on the average. There will be times when the difference will be more than other-. They may be in favor of the liquid products and in other instances it may be in favor of the costs.

Q. Your company has a number of other gasoline plant operations, does it not? Elsewhere than in this particular location?

A. Yes, we have quite a few plants, a number of which compare generally, with the Hansford and Sherman plants, in their operations and the kind of gas they handle.

Q. And all of those plants are under your supervision and direction as Manager of the Gasoline Department of Phillips Petroleum Company?

A. Yes.

Q. Are you familiar with the costs of the operations and the value of liquids in respect to these various operations?

A. I don't recall each plant material cost, by month or any particular period of time, but I do know by frequent attention to them that in plants of this character the situation is about the same in respect to the value of the liquid products and the costs of the getting the gas into the plant and the condition of the gas and delivering it to the purchaser.

Q. From your knowledge and experience, in respect to the building and operation of the gasoline plants and the value of the liquids, do you have a general knowledge as [fol. 450] to what those type- of operations can be carried on for, and what the term might be, generally, under conditions similar to which you operate?

A. Well, as far as any generally similar situation the cost would be in the same order and magnitude, yes.

Q. And taking into consideration the character of the operations that are carried on to other gathers and processors, such as Phillips, would it be fairly comparable to what your experience has been?

A. Well, I haven't had the opportunity to examine the figures of other companies in detail, but I feel quite sure from the nature of the processing involved that the economy would be very comparable.

Q. Generally, speaking, what effects Phillips Petroleum Company in this particular area, in this particular field, would reasonably be true as to other——

Mr. Culton: Your Honor, he is leading the witness.

Chairman Bond: He may answer.

A. Any other concern engaging in similar operations in this area, the same kind of gas, would be bound to come out about the same way that Phillips Petroleum Company. If the operator had a somewhat different setup where he could finish his product at his plant, and had the equip- [fol. 451] ment for doing that so that it was ready to go by commodity into the commercial market, than were shipped from that plant, and had the storage and handling facilities for it, his investment might be somewhat higher, and his credit for liquid products might be somewhat higher than our plant gathering the raw stream. But the net result would come out in the same order of that magnitude as to the value of the liquid as compared to the cost of getting the gas into the plant and conditioning it for market, delivering it to the purchaser and the conditioning of the product.

* * * * * * *

Examination.

By Mr. Culton:

Q. Mr. Bund, you mentioned the contents of the gas. Did you have the type of butane and propane included?

A. They were included in the components that I gave, but not as such. That is, not identified and separated as such.

Q. What price do you usually sell it at?

A. Well, it depends on where they go. In our case we haven't been selling any——

Q. Been using it?

A. —as such. I mean, we send some of it out in the mixed butane as butane. We have been using some of it, yes.

[fol. 452] Q. But the prices you mentioned were not the prices you get for that mixture?

A. No.

Q. What price do you get for it when you sell it?

A. Well, that depends on what we can get for it. It varies quite a great deal. We have sold butane some months back, I recall, for two cents a gallon, in that range. We have sold it for higher than that at times, depending on what the market would bring.

Q. And what price do you use for 2670?

A. We use the average of the price quoted in the Oilgram, for each month.

Q. Yes, and what was 2670 gasoline selling for then?

A. Well, as I recall, it was five cents.

Q. And what has been the highest in the last two years and the lowest for the last two years?

A. Well, I can't tell you offhand. I have records of that at home, but I don't remember.

Q. The prices at which these different constituents of the natural gasoline, which you expect to sell, of course vary year by year and month by month, and practically day by day?

A. They will vary a good deal, yes.

Q. Sometimes they are as much as three or four times as [fol. 453] much as at other times?

A. Well, you can start from any base and say that, yes. 2670 I recall being as low as one and half cents a gallon, at least, and maybe lower.

Q. And you've seen it higher than eight cents?

A. Yes, I've seen it higher than eight cents.

Q. And the same variation in price occurs in butane and popane and other constituents taken out of that type of gas?

A. They all vary with the supply and demand situation,

from time to time. We averaged, as an example, the price of 2670 or its equivalent before the time it existed as such in the industry, over a period of some twenty-five years, and the price came out about five cents, even though it reached prices higher than eight cents and prices as low as one and half cents.

Q. You stated you have quite a few gasoline plants, the Phillips Petroleum Company. Just how many?

A. Well, I will have to count them for you. I don't remember the number right off.

Q. Can you approximate them?

A. I would say ther- were about twenty-seven plants operated by the company, partly wholly owned and partly dependent on others, and about seven in which we have [fol. 454] interest that are operated by other-.

Q. Have any of those been constructed in the last three or four years?

A. Yes, we constructed one about a year ago.

Q. Where is it located?

A. Its located on the Gulf coast, in the Chocolate Bayou field, south of Houston, working on similar gas.

Q. You were in the same general department, that is, the gas and gasoline department, at the time the Michigan-Wisconsin contract was negotiated, were you not?

A. Yes, sir.

Q. Did you make any study at that time as to the economics of the gasoline plants for the purpose of extracting the liquids from the gas sold to Michigan-Wisconsin?

A. We made a lot of analyses, a lot of economic analyses, and I'm sure we did. I don't recall any particular attention to that angle alone, and I don't recall the results.

Q. Well, you do know that your computation didn't indicate you would be losing any money?

A. It didn't indicate in any of those instances that we would be making a great deal.

Q. It didn't indicate that you would be losing any?

A. As to the plants proper none of them indicated they would be very good on account of the cost of gathering [fol. 455] the gas and processing it in the plant.

Q. At that time you were anticipating that the wells in

the Hugoton field would average larger than they have actually averaged?

A. No. In the case of the Michigan-Wisconsin contract, we approached that with the data we had, which indicated that we wouldn't expect very much over four or five hundred thousand feet allowable per well, something of that order.

Q. Well, you anticipated that you would be able to supply all of their requirements from the reserve indicated, didn't you?

A. Yes. That was where the question of the amount of acreage came in.

Q. And you later set up additional acreage?

A. Yes. I think we added acreage a time or two to the total that was originally set.

Q. And that has been substantial?

A. Well, it depends on what you mean by substantial. There has been cases of several thousands acres added, yes.

Q. It-s been twenty or thirty thousand, hasn't it?

A. Well, it may have in the composite. I don't remember about any one instance.

[fol. 456] Q. You got quite a good deal of acreage down in the Stratford area, haven't you?

A. Well, the acreage is the same acreage that was indicated in the first place, but with the addition of more——

Q. In the Stratford area?

A. Stratford, I'm sorry.

Q. That's a subsequent dedication, isn't it?

A. That came in as an amendment to the contract.

Q. And you had previous amendments where you added acreage, haven't you?

A. Well, we had several. I don't recall whether previous or since.

Q. Did you make any calculations for the company at the time the 1943 field was laid in the Panhandle?

A. I don't know whether I did——

Q. Whether or not it would pay to take that gasoline out?

A. I don't believe I did at that time. I was tied up in connection with some of our government work at that time and I didn't have anything directly to do with that contract.

Q. Well, you do know that you expected you would be able to produce much more gas than that acreage committed to Panhandle than was estimated?

A. Well, at that time, as I recall it, yes, we did expect [fol. 457] somewhat more because there hadn't been very many wells drilled in the whole Hugoton area in Texas or Oklahoma.

Q. Well, all of your gathering lines were of sufficient size that you could, by change in the pressure differential, pressure for the gathering system, transport far greater volume of gas than you are now transporting?

A. Well, I think——

Q. Gather, I say.

A. I think that's true of any pipeline, to want to take more pressure differ-tial, and you can transport more gas.

Q. Yes, but you had in mind, didn't you, at the time of the Panhandle deal of transporting, or, shall I say, moving more gas through the gathering system?

A. I think that we anticipated that the wells would be somewhat more prolific than they all proved to be later. However, we didn't install the entire system immediately after that contract was made. We added to it from time to time since, right up to the present time, so that if there's any presumption to be made as to what we had originally, at least practically all set by what we found out later.

Q. But you processed much more gas than most gasoline plants?

A. Well, its our policy, generally, to presume that we will [fol. 458] have, under the conditions we expect to operate, a certain volume of gas, and to allow for some flexibility in almost any plant, somewhat more, under certain conditions.

Q. The liquids that you extract in both plants you stated are not the same volition?

A. They vary from time to time somewhere in the range of probably 55 pounds to 60 at times.

Q. And you take out practically all the butane and propane?

A. No, we take out a substantial portion of them. We are limited in these contract- by the value, the B. T. U. value

of gas that is ultimately sold, so that we do not strive for the maximum economical depth which we might extract.

Q. I know, but after allowing a minimum and taking out 35 pound gasoline, you don't leave much butane and pintane in that, do you?

A. No, there wouldn't be very much pentane. There would be somewhat more butane than pentane left, and there would be quite a bit of propane.

Q. This raw gasoline, which you extract, is transported from Borger, that's about how many miles?

A. Seventy or eighty, I guessed it.

Q. And that is practically all used by you, your company, at Borger in making different products, isn't it? You don't [fol. 459] sell much 2670 gasoline yourselves, do you?

A. No, sir.

Q. You don't sell much butane or propane, do you?

A. Yes, we sell quite a lot. In fact, I think we sell more than anybody else.

Q. Wintertime or summertime?

A. All the time.

Q. You have a surplus in the summertime, do you not?

A. Normally that's the case. We didn't last summer, but the market is slow in summer and extremes in the winter.

Q. And you have in mind to store it, butane and propane, don't you?

A. We not only have it in mind, but we are doing it. We provided storage for years, to accumulate some.

Q. That's so you will be able to take advantage of the better markets in the wintertime?

A. Partly that, partly because of the fact that you have to take care of it, and if the market doesn't take it all the time, it isn't a matter of price, its a matter of delaying, and you have to do something with it.

Q. So you do get a substantially higher price in the wintertime on butane and propane than summertime?

A. That- the general pattern of the pricing of those com- [fol. 460] modities, yes.

Q. Now your 26 pound gasoline, you use that for making what products?

A. Well, we add the most of it to refinery products made from crude oil and market it as motor fuel.

Q. And all of these constituents of the 55 pound, or whatever it is, are just thrown into the pot with similar constitutents and used for whatever purposes desired at the time?

A. Well, if you mean by that that raw gasoline from Hansford and Sherman plants is commingled with similar products from a lot of other plants and then the whole processed together, that's right.

Q. Just commingled?

A. Yes.

Q. You gave the content of .809 at the Hansford plant and .527 at the Sherman plant. Is that on a 14.65 base?

A. Yes, that's the month of March, 1952.

Q. Is that typical——

A. I don't know whether it is or not, to tell the truth about it. I didn't check it for a great number of months. That's a late winter month and early spring. It probably - a little higher than some other parts of the year and the average month a little less than that.

[fol. 461] Q. Is the Hansford plant a more viscous plant than the Sherman plant?

A. Well, I would say it is. Probably a little less loaded at the moment than the Sherman plant is.

Q. Can you explain why it is you get fifty percent more liquids out of the gas at the Hansford plant than you do at the Sherman plant?

A. Well, part of it is due to the fact that the compositions of the raw gas varies somewhat. At least for this month they indicate that much variation.

Q. There's a higher content as a whole, that month, in the gas going into the Hansford plant than that of the gas going into the Sherman plant?

A. Yes, on the basis of that composition. However, the 2670 in that particular case is about the same.

Q. The figures are .809 and .527?

A. Yes, but the 2670 content indicates about the same.

Q. Which gas is it that goes to the Hansford plant?

A. That gas which is connected to it from the well in

which we produce for Panhandle Eastern Pipeline Company.

Q. Most of that *has* is produced in Oklahoma, isn't it?

A. Well, I don't know what the proportions are. The acreage is somewhat greater in Oklahoma than in Texas, [fols. 462-465] and I presume that is the case.

Q. But the difference, the fact that 60 percent from 55 pound gasoline is taken from the gas flowing through the Hansford plant than is taken from the gas flowing through the Sherman plant is accounted for by the fact that there are more liquids in the gas flowing through the Hansford plant than the gas flowing through the Sherman plant?

A. Well, I wouldn't say necessarily. Of course, that's only one month's result there, and what the variation is, whatever the combination of wells from month to month, I think we can say this generally. From my observation, that the composition of the gas on the average going through the Sherman plant is a little less than at the Hansford plant.

Q. Why did you select March for those computations?

A. Its just an average mont-. I was trying to pick one that was typical and yet have one rather recently.

Q. As far as you know it was typical. You didn't pick it for any particular reason?

A. No, I didn't even look——

Q. As far as you know it is a typical month?

A. It could be, or it could be quite different from the average.

* * * * * * *

[fol. 466] Examination.

By Mr. Williams:

Q. Mr. Culton inquired of you as to the variation of liquid values, and I believe you said from year to year and from month to month. Is there a variation in the cost of operations likewise from period to perios?

A. Yes, I mentioned that there was. The cost varies in full and on a per unit basis, both, according to the conditions that exist at the time. We sometimes have usual operating expenses in a given month or given year, and do

not have in other years. There again you have a variation in the amount of gas that passes through the plant in one month as compared to another. Recently, for instance, we had the entire Sherman plant shut down because of a break in the Michigan-Wisconsin line for some weeks, yet we had the labor costs and quite a few other costs continuing just the same, so that the unit cost would obviously be affected.

Q. I believe you said that in your observation and your judgment that on the average, the return from liquid and the costs would about balance off?

A. Yes, as I recall the references to our results of these plants, over the same period of time would about break even, the cost of moving the gasoline and conditioning it for market.

Q. In your opinion would gas of like character in the same area be the same experience of other operators in [Vol. 467] similar operation?

A. The economics of other operators around there would be the same order of magnitude. They couldn't escape it.

Q. He also inquired of you as to the value of the component parts of this raw, natural gasoline at Borger after fracination?

A. Yes, sir.

Q. Corresponding with that increased value of those products after fracination there would be substantial increase in costs in obtaining such increased value, is that not true?

* * * * * * *

A. Yes, you have to have additional investment to do the additional processing and additional means for treating it or converting it and marketing it, shipping it and marketing it so that there are added costs of investment of operation and labor at the Hansford plant. The values of the components that we credit to these plants out of the raw material that is moved from them is comparable to the commodities that the average gasoline plant over the country markets, and in that sense it puts those plants on

a similar basis with plants that may be equipped to market [fols. 468-469] particular commodities.

Mr. Williams: I believe that's all.

* * * * * * *

[fol. 470] Mr. T. E. Smiley, called as a witness, and having been first duly sworn, testified as follows:

Examination.

By Mr. Williams:

Q. State your name.
A. T. E. Smiley.
Q. You live at Bartlesville, Oklahoma?
A. That's correct.
Q. Employed with Phillips Petroleum Company?
A. Yes, sir.
Q. What capacity?
A. Chief accountant of the Gas Accounting Section.
Q. How long have you been connected with Phillips Petroleum Company?
A. I first went with the Independent Oil and Gas Company in August, 1928, and it was acquired by merger by Phillips Petroleum Company in October, 1930. Its been approximately twenty-four years service.
Q. In your position with the company, Mr. Smiley, are you familiar with the books and records of the company that reflects the income and costs in respect to the gathering and processing of gas sales of the liquids in the Guymon-Hugoton field in Oklahoma and the Hugoton area Texas?
A. Yes, sir.
Q. Is that true with respect to the gas and the returns [fol. 471] plus relating to the Sherman and Hansford plant of your company in that area?
A. It is.
Q. I will ask you, Mr. Smiley, if you, at my request, have made up a statement from the books and records of the

company reflecting for any given period the returns from the liquids so extracted at the plants as compared with the cost of gathering and processing of the gas that is so processed?

A. I have.

Q. Do you have that with you?

A. Yes, sir.

Q. I have had the Reporter to mark Exhibit Number 39, and I will ask you to state if that is the statement you have so prepared at my request?

A. It is.

Q. Will you briefly state to the Commission what that statement shows?

A. Yes, sir. It shows separately for the Sherman system and the Hansford system, that is, the system that is connected to the Sherman plant, and delivering gas to the Michigan-Wisconsin Pipeline, and the system connected to the Hansford plant and delivering gas to Panhandle Eastern Pipeline Company. It shows the income from liquids versus gathering and processing costs based on the year 1951, and the Commission's order of 9.82 cents per [fol. 472] M. C. F. of gas produced and purchased at the wellhead.

Q. Why did you use the year 1951, Mr. Smiley?

A. To have a period of at least a year, to have an average for some period of time and including a period after the Sherman plant was in full operation.

Q. Now if you will, Mr. Smiley, I will ask if you take the Exhibit and explain the different business items and the conclusions there reflected?

A. It shows first the income from liquids. The liquid values were priced as testified to by Mr. Bund, based on the actual production of the plant. The value of the liquids priced that away were divided by the volume of gas received in each of the two systems to determine a value of the liquids per M. C. F. It shows for 26-70 gasoline on the basis of the price Oilgram quotation of 2.09 for the Sherman system 2.13 for the Hansford system, less the deduction of one eight- cents per gallon, which amounts to only fixe-hundre-ths of a cent per M. C. F. produced. The butane value if twenty-one hundredths of a cent for Sher-

man and forty-nine hundredths of a cent for Hansford per M. C. F. for gas produced and purchased. Propane amounts to eight hundredths of a cent for Sherman and thirty-eight hundredths of a cent per M. C. F. produced and purchased for Hansford. The costs are broken down into general classifications of gathering, processing, and there is an item shown that is not directly from the books. Extrac-
[fol. 473] tion, Fuel and Loss, which were determined by taking the difference between the total volume of gas produced and purchased and received into the system, and the total volume of gas sold out of the system, and the pricing of that difference at the proposed minimum price. Then there is the small item, Residue Delivery cost, representing largely the cost of maintaining the meter for delivery of the gas, giving a total cost at Sherman of 1.84 cents per M. C. F., and 2.44 cents per M. C. F. at Hansford for gathering and processing the gas. That leaves a net income of liquids, before income tax, of forty-nine hundredths of a cent for Sherman, and fifty-one hundredths of a cent at Hansford; then less federal income tax at the current rate of fifty-two percent; leaves a net income that we would receive if the gas was purchased and sold at the same price, the net income would be twenty-four hundredths of a cent at both plants. Then it also shows the investment we have in the facilities, or rather the net investment, after reserves for depreciation through December 31, 1951 of approximately $15,500,000 at Sherman and $4,200,000 at Hansford. The return on that investment, necessary to gather and process the gas would only be one and nine tenths cents at Sherman and 2.23 percent at Hansford. It also shows the volume of gas produced and purchased at the wellhead, M. C. F. 14.65 pressure base for each plant.

[fol. 474] Q. I believe, Mr. Smiley, that you, at my request, made a hurried calculation to check as to what the results have been for the first five months of this year?

A. Yes, sir.

Q. I understand you do not have that in exhibit form, but you do have a figure that you yourself has worked out.

A. I do.

Q. Would you state what that figure is?

A. The net income from liquids of gas purchased and

sold at the same price, computed in exactly the same manner as I described it for this statement as in Exhibit 39. For the Sherman plant it would be .14 of a cent for the first five months of 1952, and the Hansford plant would be a loss of .28 of a cent after reducing the actual loss of .59 of a cent by an assumed savings in income tax by having that loss deductible from other profits and other places, which gives you a return on investment 1.21 of [illegible] cent at Sherman and a loss of 1.97 of a cent at Hansfo[illegible]d. Incidentally, I might add that the liquid income is substantially the same as Sherman, but is up appreciably at Ha[illegible]sford to 3.22 of a cent, but the cost will up a greater a[illegible]ount at Hansford.

Mr. Williams: I believe that's all. I would like at this time to introduce, in aid of the witnesses' testimony, the [fols. 475-526] Exhibit which he has prepared, Number 39.

* * * * * * *

[fol. 527] George Bund, recalled as a witness, having been duly sworn, testified as follows:

Examination.

By Mr. Williams:

Q. Mr. Bund, you testified that you are familiar with the facilities of the Phillips Petroleum Company, both on the Oklahoma side and the Texas side of the state line in the Gymon-Hugoton field?

A. Yes.

Q. Is there anything with respect to the operations of the Phillips Petroleum Company on the Texas side of the state line that would cause you, in your opinion, to think that the cost of operations or the income would be materially different than that on the Oklahoma side?

A. No, there is no unusual circumstance that I know of. The gas is produced on both sides of the line from the same formation, the geologists tell us. As far as I can discern, there is no difference. There is some variation in the

amount of gas from one well to another, there is some variation of the quality of gas from one well to another, but on the general average they are both the same.

Q. Are the variations between the quality and character of gas in wells in Oklahoma?

A. Yes.

[fols. 528-529] Q. In the first 1,000 cubic foot unit of gas, you don't know of any reason why the cost in Texas would be materially different from the cost in Oklahoma?

A. No.

Mr. Williams: That's all.

Examination.

By Mr. Culton:

Q. Mr. Bund, what is the comparison as to the capacity of the two plants?

A. The Hansford plant, as I remember, has a designed capacity of about 160,000,000 per day and the Sherman plant about 350,000,000 a day.

* * * * * * *

[fol. 530] Q. By the way, I believe you stated, I'm not certain, but did you make any study of the Michigan-Wisconsin project under consideration?

A. We made a complete economic analysis of the project. It was anticipated, prior to making a deal, which included the cost of drilling the wells and of providing the lines with which to gather the gas and the gasoline and feeding facilities, and that analysis was, of course, built up from separate studies of different phases of it. We made a general analysis of it, yes.

Q. You reached a conclusion on the basis of the computations made at that time that it would be economic to Panhandle to put in an extraction plant and extraction facilities?

[fol. 531] A. Well, we decided the whole project was a feasible project.

* * * * * * *

[fol. 532] T. McDonald Biddison, recalled as a witness, having been duly sworn, testified as follows:

Examination.

By Mr. Williams:

Q. State your name, please.

A. T. McDonald Biddison.

Q. Are you the same Mr. Biddison who testified earlier in this same proceeding?

A. Yes.

Q. In what business or occupation are you engaged?

A. Consulting engineer in the oil and gas industry.

* * * * * * *

Q. Adding to your prior stated qualifications, what experience have you had in the matter of studies of gasoline plant operation, the matter of gathering of gas that comes in thereto and in particular to the Guymon-Hugoton field?

A. Well, generally speaking, I was one of the pioneers in the method of processing gasoline from natural gas. I haven't in recent years designed or operated any such [fol. 533] plants. I have, however, made studies of the installation costs, operating costs and revenues from plants of various operators in the Panhandle and Hugoton fields, including results from a plant of Panhandle Eastern Pipeline Company, and more recently a study on the gathering system of the Hugoton Production Company. Since the war, studies on some of the gasoline plants of Phillips Petroleum Company and some estimates on their behalf on plants in the area. I have also made an analysis of some of the results of operation on the gathering and processing plants of the Panoma Corporation in a case before this Commission.

Q. The plants of Phillips to which you refer, are they the Hansford and Sherman plants that have been testified about in this proceeding?

A. Yes.

Q. The study that you made in connection with the Hugoton Production Corporation, did that have to do with the

gathering and processing of gas in the Guymon-Hugoton field?

A. It had to do primarily with their gathering costs. Their gasoline plant was not yet in operation at the time of my study.

Q. The study you made in connection with the Panoma gathering system, were certain general principles used in connection with the cost of gathering and processing gas [fol. 534] and generally calculating the returns from liquids in respect to such fields such as the Guymon-Hugoton field and particularly in respect to the type of gas?

A. Yes, from studies of calculations made and estimates, one can readily generalize the costs and the reason for their variations.

Q. And that is also true in respect to the returns from liquids?

A. That is correct, yes.

Q. Could you give the Commission the benefit of your knowledge and conclusions in that regard, particularly as it applies to gas of the kind and character that you find in the Guymon-Hugoton field?

A. As to the gathering costs, they will vary in the initial installation, tending to be reduced by the average well size being large and the cost will increase as well pressure decreases. Furthermore, the gathering system investment and operating costs will decline per unit as the volume in the system is increased. That's the general rule. In processing plants, the investment per unit of capacity declines as the capacity increases. The investment per unit capacity will be increased if stripping be carried high into the butane and propane factions. Now, these variations [fol. 535] in degree of stripping are caused by restrictions on the heating value of gas delivered at the point of sale and may be affected by the nitrogen content of the gas as produced in the raw state from the well. Those are generalizations of tendencies in costs.

Q. Taking into consideration gas as produced in the Guymon-Hugoton field, can you give the Commission a generalization as to the cost of gathering and processing, taking into account depreciation, return investment, as compared with the returns from the liquid recovery?

A. I'd like to leave out the return on the investment in making such a comparison.

Q. All right, let's leave out the return on the investment.

A. Taking the out-of-pocket cost, plus depreciation, the gathering cost in the Hugoton area may be expected to vary roughly between the limits of 1-and-1½ cents per 1000 feet. The processing cost, depending upon the degree of stripping, requires 1000 cubic feet of gas at a cent and three-quarters.

Q. Now, if you take the sum of the maximum amounts of the cost of gathering and processing in the Hugoton area what would it be?

[fol. 536] A. It would be two cents per 1000 cubic feet. In the study I made of the data of the Panoma Corporation, as shown by the exhibit presented by me in my testimony in that case, if you deduct from the total cost of service shown in that statement the items figured for return and income tax, you get a resultant cost on their operations of 33½ per cent per 1000 cubic feet of 2670 gasoline. Currently, the normal expectancy over a long period is about five cents per gallon for 2670 gasoline and on 350 gallons that would give you 13¼ cents per 1000 feet of 2670 gasoline produced. Now, in addition to the 2670 gasoline, there is a normal expectancy of production of some additional liquids, some propanes in various proportions, generally referred to as LPG, may be restricted by the heating value of the raw gas and the specifications on the sales contracts as to the minimum heating value of the gas sold. Now, under varying conditions of raw gas and those sales contracts generally requiring that gas be something like 970 b. t. u.'s or more, the additional revenue from the LPG may amount to 15 per cent of that received from the 2670 gasoline to 40 per cent of that received from the 2670 gasoline. Now, that relationship may be varied from time-to-time because there may be a price season variation in the price received for the LPG material which might throw it out of balance with those [fol. 537] ratios I have recited. Well, now, if you get 1¾ cents per 1000 feet for your 2670 gasoline and 15 per cent additional LPG, you have a total revenue per 1000

feet of 2.45 cents. If your gathering-processing cost is two cents, including depreciation, you then have a remainder of .45, say ½ cent, available for return and income tax on that operation and the return of an income tax division of ½ cent somewhere between ⅓ and ½ would have to be taxed at the present tax rate, leaving a mighty small margin for earning rate on the investment, a very small margin.

Q. You say that you have made a study in respect to the Panoma gathering and processing operation?

A. Yes, sir.

Q. Did you find those operations to be within the range of the figures that you have here recited?

A. Yes, sir.

Q. You heard Mr. Smiley's testimony in respect to Phillips' operation of its Sherman and Hansford plants?

A. Yes, sir.

Q. Did you find their experience to be within the range of the figures you have here given?

A. Yes, sir.

Mr. Williams: I believe that's all.

[fol. 538] Examination.

By Mr. Culton:

Q. I believe you stated that you made a study for Phillips in connection with the construction of the Sherman plant?

A. That's right.

Q. What price did you estimate or use for your figures for 2670 gasoline?

A. I think it was something around 6½ or 7 cents at that time, Mr. Culton, I'm not positive.

Q. What did you use for butane and propane?

A. I think we used 3 cents on butane and about ¾ of a cent on propane.

Q. All those prices used are less than the present prices?

A. The prices on 2670 certainly are. I think, however, the price on propane is a little higher now than the price we used at that time.

Q. And do you know whether your estimate of cost was approximately what was actually incurred?

A. Well, I am sure that the estimate we made at the time was materially lower than what was incurred, because the price of steel at that time was about $64 or $64 a ton at the mill; the freight rate was, I think, about $20 a ton, maybe a little bit less. When they built the plant, steel was very very scarce and the price had gone up. I don't know what prices they actually paid for some of it, but as [fol. 539] compared to the price existing at the time of the estimate, the steel price is hiked now and it is about $125.

Q. In other words, at the time of completion of the project are the prices we are interested in not the present price?

A. I do not know the price they paid for steel at the time they built the plant. I know that during that period the prices had materially advanced above the prices used in the estimate.

Q. Then it would be to your best judgment, would it not, that Phillips' actual performance operations have resulted on the whole in lower income from liquids and higher cost of construction of operations than was estimated?

A. Absolutely.

Q. This is an occasion where a guess turns out wrong, just like all estimations, all guesses that turn out wrong are frequently classified as bad investments?

A. Well, I think we made a good business guess, but conditions change and we couldn't read the crystal.

Q. But for the fact that the value of the gasoline had substantially gone down from the time you made your estimate and the fact that the cost of construction increased after you made your estimate and before the project was constructed, Phillips would have had a better net return on [fol. 540] their plant than they have shown?

A. I feel sure of that, yes, sir.

Q. Did you also make a study for Phillips in connection with the construction of the Hansford plant?

A. No, sir, I did not.

Q. The only thing you had to do with that was after the construction you made some studies in connection with the——

A. I took some of the operating results.

Q. Just some of the operating results?

A. That's right.

Q. You do not know then what prices Phillips expected to realize from its liquids from the time construction of that plant as compared to the prices they now receive?

A. No, sir.

Q. Nor do you know what their experience was as to that construction?

A. No, sir.

Q. You referred to the unit cost. Of course, there are many things determining unit cost, are there not?

A. Yes, sir.

Q. One of them is the distance the gas has to travel; the greater the distance the more the cost. Another is, and I [fol. 541] believe you stated the pressure of the wells and also the size of the wells have something to do with that——

A. Yes, sir.

Q. Do you know whether or not it was later ascertained that the wells which are connected to the Sherman system and to the Hansford system, in both Texas and Oklahoma, had lower deliverability than was estimated at the time you made your estimate?

A. I don't know about the Hansford system, but I think that is true on the Sherman system.

Q. The greater portion of the wells serving the Sherman system are the wells are—are the wells located in Texas?

A. Yes, sir.

Q. And speaking as a whole the wells located in Texas part of the Hugoton field are not as prolific as the wells located in Oklahoma?

A. In the Sherman system?

Q. All, most systems I am talking about now. Taken as a whole, the wells in Hansford and Sherman counties are not as good, on the average, as the wells in Texas County, Oklahoma?

A. I believe that's right.

Q. The pressure has also gone down greater in proportion to the production, has it not, in Texas?

[fol. 542] A. I can't answer that question. I haven't got the information.

Mr. Culton: I believe that's all.

Examination.

By Mr. Williams:

Q. All these imponderables about which you've been asked were taken into consideration by you, were they not, in arriving at the generalized range of cost and income as testified to a while ago?

A. Yes, sir.

Q. Those items, both of cost and income, will vary from time-to-time?

A. Yes, sir.

Mr. Williams: That's all.

Further examination.

By Mr. Culton:

Q. I assume at the time you made your study, these imponderables existed and the result of your study was affected by them?

A. Yes.

Q. Its the same thing when a fellow drilis a well. He knows he may get a little gas or he may get a whole lot.

A. He has to base his operations on what he believes to be the probabilities.

Q. And if the probabilities don't pan out, why, the success or failure is as it would have been had it panned [fol. 543] out?

A. Unless there is some way to rectify the situation.

* * * * * * *

[fol. 544] Allen B. Hiatt, called as a witness, being first duly sworn, testified as follows:

Examination.

By Mr. Williams:

Q. State your name, please.

A. Allen Hiatt.

Q. Are you employed by Phillips Petroleum Company?

A. Yes, sir.

Q. In what capacity?

A. Coordinator of the Natural Gas Department.

Q. How long have you been employed by Phillips?

A. Since August 5, 1930.

Q. You are familiar with the operations carried on in the Guymon-Hugoton field in Texas County, Oklahoma?

A. Yes, sir.

Q. Have you, at my request, Mr. Hiatt, made an analysis of the volume of gas, in terms of percentage as a whole, produced in the Guymon-Hugoton field that is sold at the wellhead?

A. I have.

Q. As compared with the gas sold elsewhere than at the wellhead?

A. Yes, sir.

Q. What is the result of that analysis?

[fol. 545] A. My analysis shows that out of the total of some 1000 wells in the Guymon-Hugoton field, there is gas sold at the well from 141 of these wells and those 141 wells have 12.14 per cent of the production allowable in the field.

Q. In other words, 12.14 per cent of the gas produced in the Guymon-Hugoton field is sold at the wellhead?

A. Yes, sir.

Q. The remaining percentage of gas produced is sold or disposed of at points elsewhere than at the wellhead?

A. Yes.

Mr. Williams: That's all.

Examination.

By Mr. Culton:

Q. How much of that gas from those wells is consumed in the State of Oklahoma?

A. Well, I haven't made an analysis of the consumption of it.

Q. You don't know what market it went to?

A. I know what market the gas goes to by wells, but I don't have the volume tabulated.

Q. Could you give us the wells?

A. The Southwestern Public Service Company has one

well which they sell to Cabot Carbon Company. That's the Southwestern Public Service Company Bacon No. 1. Skelly Oil Company has two wells which they sell to Cities [fol. 546] Service Gas Company. That's the Elmo Jones A-1 and the Elmo Jones B-1. The American Gas Production Company sells gas from 72 wells to Northern Natural Gas Company.

Q. Those are wellhead sales you are talking about?

A. Yes, sir. Kerr-McGee Oil Industries, Inc., sells from 10 wells to Phillips Petroleum Company; Stanolind Oil & Gas Corporation sells from 30 wells to Phillips; and Tascosa Gas Company sells from 21 wells to Phillips. Butcher and Carey, J. M. Kessler, and Panoma Corporation sell from one well each to Southern Public Service Company.

Q. What about the Texas Company?

A. The Texas Company sells from one well to Northern Natural Gas Company and from one well to Phillips Petroleum Company.

Mr. Culton: That's all.

Witness excused.

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[547] Mr. Williams: We would like to introduce in evidence Exhibit 41, which is the General Rules and Regulations, Order No. 19334, Governing the Drilling of Oil and Gas Wells and the Production Therefrom in the State of Oklahoma. As Exhibit 42, Order 24745 in Cause CD 3048; as Exhibit 43, Order 19702 in Cause CD 1054; as Exhibit 44, Order 19514 in Cause CD 1054; and as Exhibit 45, Order 17867 in Cause CD 983.

Chairman Bond: Received.

* * * * * * *

STIPULATION OF COUNSEL

Mr. Robinson: We offer as Exhibit 47 a stipulation entered into by the parties.

Chairman Bond: Received.

Mr. Hayes: Now, let the record show that the Applicants [fol. 548] and Natural Gas Pipeline Company of America

stipulated to the following facts which may be incorporated in the record:

1. Natural Gas Pipeline Company of America is a Delaware corporation, and is a natural gas company within the meaning of the Natural Gas Act of 1938 and amendments thereto. Under certificates of public convenience and necessity issued by the Federal Power Commission, it owns and operates a natural gas pipeline system extending from a point near Gray, Oklahoma, to markets in Iowa, Nebraska, Illinois, Indiana and Wisconsin. Its principal market is in the Chicago metropolitan area. It supplies large quantities of gas for use in such markets for residential, commercial and industrial purposes. The quantities so transported and sold aggregate approximately 184 billion cubic feet annually and average more than 500 million cubic feet daily, measured at a pressure base of 14.65 pounds per square inch. The greater portion of the supplies for such pipeline are obtained in the State of Texas and delivered into such system at Gray, Oklahoma, through a pipeline owned by Natural extending from Moore and Hutchinson Counties, Texas, to Gray, Oklahoma. A portion of such Texas gas is residue gas from natural gas produced by Natural Gas Pipeline Company through its own wells and a portion purchased in Texas from other producers. Additional gas for such system is purchased [fol. 549] by Natural from the Panoma Corporation. A contract was entered into between Natural and Harrington & Marsh on December 1, 1946. A copy of such contract is attached hereto as Exhibit "A". The rights of Harrington & Marsh under such contract have been assigned to and are now owned by the Panoma Corporation. The parties to such contract do not now agree as to the legal effect of such contract on the sale and purchase of such gas.

2. For the gas acquired by Natural from Panoma Corporation Natural is currently paying to Panoma seven cents (7¢) per m. c. f. computed at 16.4 pounds pressure base and applied to the volume of gas which enter Natural's pipeline system after passing through the gasoline plant of Panoma. Prior to the time such gas enters Natural's said pipeline after passing through Panoma's gasoline plant, Panoma extracts and retains liquefiable hydrocar-

bons from the raw gas, but the Corporation Commission by Order No. 19515 has directed Natural to pay at the wellhead rate for gas delivered at Natural's compressor station. Natural has appealed from such Order to the Supreme Court of Oklahoma.

3. None of the gas so purchased by Natural from Panoma is used in Oklahoma except the quantities that are used by Natural in operating its compressor station. The rest of [fol. 550] such gas is transported by Natural to its markets in other states and sold there.

We offer this stipulation as a part of this record.

Chairman Bond: Very well.

Mr. Hayes: The record should further show that the facts so stipulated have been presented to the Attorney for the Commission and he has approved of the stipulation. We also would like to offer as Exhibit 48 a copy of the contract referred to in the stipulation as Exhibit "A" between Natural Gas Pipeline Company and Harrington & Marsh.

Chairman Bond: Do you offer that as an exhibit?

Mr. Hayes: Yes, sir. Exhibit 48.

Chairman Bond: Received. Any further exhibits, gentlemen?

Mr. Robinson: Applicants have entered into a stipulation with Northern Natural Gas Company which has been identified by the Reporter as Exhibit 49, which we offer in evidence.

Chairman Bond: Received.

Mr. Robinson: Applicants have entered into a stipulation with Panhandle Eastern Pipe Line Company as to certain facts relating peculiarly to that Company. The stipulation has been identified by the Reporter as Exhibit 50; and, now, on behalf of the Applicants and Panhandle East- [fols. 551-552] ern, we offer Exhibit 50 as a part of the record.

Chairman Bond: Received.

Mr. Robinson: Applicants have stipulated with Natural Gas Pipe Line Company to the fact that Natural Gas Pipe Line Company can produce qualified witnesses to testify to the facts set forth on an instrument which has been identified by the Reporter as Exhibit 52, and that such facts

may be taken as proved and as if a witness had appeared, been sworn, qualified, and testified to the facts which are set forth in Exhibit 52.

Chairman Bond: Received.

Mr. Hayes: Perhaps the record should show that Exhibit 52 consists of a series of tabulations, but it is offered as one exhibit. Now, if the Court please, Natural Gas Pipe Line Company would also like to offer in evidence as Exhibit 53 a map which shows the principal gas field in Oklahoma and gathering lines. The exhibit has been submitted to counsel for Applicants and, I believe, may be admitted without objection.

Chairman Bond: Received.

* * * * * * *

[fol. 553] Mr. Hayes: There's one other point we would like to stipulate on and I believe we can and it involves the situation with regard to any prior gas price orders. That is, in fields other than Hugoton. There is no present effective order of this Commission which fixes a wellhead or other price for gas in any field in Oklahoma. It is true, I think, as recited in the opinion of the Supreme Court of [fol. 554] Oklahoma in the Peerless case that the Commission at one time did issue an order in the Cushing field. I think it is also true that recently applications have been filed before the Commission which seek the fixing of a price order. One of them is an application of the Anderson-Prichard Oil Company in Cause 3687. The other was an application by——

Mr. Green: That was never heard by the Commission.

Mr. Hayes: I didn't know abor that. Such application was, according to the records of the Commission, dismissed by the Applicant without decision. The other application was filed by Texas Consolidated Oils, Inc., against Cities Service Gas Company and Consolidated Gas Utilities Company and Ray Stephens, Inc., in Cause CD 3201. That a notice of hearing, directed to all operators, purchasers and takers of gas in the Cement Gas Field and Chickasha Gas Field and all other interested parties in Caddo County, Oklahoma, was issued by the Commission and that Cause

is still pending. The Cause has not been heard and no order has been issued therein. I think that correctly reflects the situation with regard to applications for and orders by the Commission relating to the fixing of the price of gas in Oklahoma, with the exception of the Guymon-Hugoton field.

[fol. 555] Mr. Green: There is one other case, Empire v. Oklahoma Natural, up here at Dewey, wherein the Supreme Court upheld an order of this Commission fixing the price. It fixed the price at the wellhead on one particular well.

Mr. Hayes: Well, if that's a correct statement, so far as anybody knows, I'll so indicate.

Mr. Robinson: As far as I know, that's correct.

Chairman Bond: Very good. Anything further, gentlemen?

Mr. Olson: If it please the Commission, I would like to say that Cities Service Gas Company has not filed any response or answer to the application of the Applicants in this case. In view of the way the case has turned and in view of the suggested order of Phillips and in view of the wording of the application, Cities Service Gas Company would like to be granted the privilege, if any orders are issued by the Commission, the right within 10 days to file its written legal objection, if any it has, to any order or orders and file it and make it a part of the record in this case.

Chairman Bond: Permission granted. That means you don't raise any new issues, you don't offer any testimony, you just file——

Mr. Olson: Based on the record.

[fols. 556-560] Chairman Bond: Based on the record? Very good.

Mr. Hayes: Natural Gas Pipe would like to ask permission to do the same thing. I'll tell the Commission frankly we had a response prepared, but it is no longer applicable. You will recall that at the outset of the proceedings there was some shifting of positions and we would like to do that without injecting any new issues and without offering any further evidence.

Chairman Bond: Permission granted.

* * * * * * *

[fols. 561-562] Chairman Bond: Anything further, gentlemen? The Commission will close the case and take it under advisement under the conditions as agreed to.

* * * * * * *

[fol. 563] BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 3628

IN THE MATTER OF THE APPLICATION OF CERTAIN MINERAL Owners in Texas County, Oklahoma, for an order determining the minimum price at which gas produced from the Guymon-Hugoton Field may be first purchased or sold.

RESPONSE OF NATURAL GAS PIPELINE COMPANY OF AMERICA—Filed July 14, 1952

Comes now Natural Gas Pipeline Company of America, hereinafter referred to as Natural, and shows that it is a natural gas company within the meaning of the Natural Gas Act of 1938 and amendments thereto. It owns and operates under certificates of public convenience and necessity issued pursuant to said Act a natural gas pipeline transmission system which originates in the Panhandle Gas Field in Texas, with a lateral line originating in the Guymon-Hugoton Field in Texas County, Oklahoma, and extends into and through the states of Oklahoma, Kansas, Iowa, Nebraska and Illinois. It purchases residue gas, being a constitutent of natural gas, which is produced in the Guymon-Hugoton Field, and transports and sells the same with other gas for consumption in the states above mentioned (including the Chicago Metropolitan area) and the states of Wisconsin and Indiana.

[fols. 564-587] Natural objects to and protests against the entry of any order herein fixing or increasing the minimum wellhead price of natural gas produced in the Guymon-Hugoton Field, and any order, the effect of which would be to require Natural to pay for residue gas purchased by it

under existing contracts the minimum price fixed for raw natural gas at the wellhead. In this connection, Natural states that any such order would exceed any statutory or constitutional authority granted to the Commission, would be discriminatory, arbitrary and void, and violative of Sections 7 and 15 of Article 2 of the Constitution of Oklahoma and the Fourteenth Amendment to the Constitution of the United States, and would likewise impose a discriminatory and unlawful burden upon interstate commerce contrary to the provisions of Section 8 of Article 1 of the Constitution of the United States, the protection of all of which constitutional provisions Natural hereby invokes.

Natural Gas Pipeline Company of America, by (S.) C. C. McDougald, D. H. Culton, Coleman Hayes, Its Counsel.

Filed: July 14, 1952, Secretary, Corporation Commission of Oklahoma.

[fol. 588] Before the Corporation Commission of the State of Oklahoma

Cause CD No. 3628

Order No. 26096

In the Matter of the Application of Certain Mineral Owners in Texas County, Oklahoma, for an order determining the minimum price at which gas produced from the Guymon-Hugoton Field may be first purchased or sold.

Report of the Commission—July 29, 1952

This cause came on for hearing before the Corporation Commission of Oklahoma in its Court Room, Capitol Office Building, Oklahoma City, Oklahoma, on the 20th and 21st days of February, 1952, at 10 o'clock, am, at which time all Commissioners were present and the case was heard.

The case was then continued to various dates and was finally heard on July 8th and 9th, 1952, and at the conclu-

sion of the testimony on July 9th all parties announced that they had rested, the case was closed, and the matter was taken under advisement.

At all hearings the following appearances were entered: Eizley, Tyron and Sweet, E. H. Lange and C. H. Hinton appeared for Panhandle Eastern Pipe Line Company; R. M. Williams, Kenneth Heady and Cecil C. Hamilton appeared for Phillips Petroleum Company; Mark Adams appeared for Northern Natural Gas Company; C. C. Kuhne, Coleman Hayes, D. H. Culton, Warren T. Spies, B. M. Britain appeared for Natural Gas Pipeline Company; T. [fol. 589] Murray Robinson and Dale & Dale appeared for applicants; L. T. Cramer appeared for Office of Price Stabilization; Joe Rolston and R. R. McCracken appeared for Cities Service Gas Company; Floyd Green, Conservation Attorney and Ferrill Rogers, Assistant Conservation Attorney, appeared for the Commission.

Now, on this the 29 day of July, 1952, the Commission being in executive session, the matter comes on for further discussion and the Commission being well and sufficiently advised in the premises, is of the opinion that the application should be granted to the extent hereinafter set out and therefore finds as follows:

Findings

1. That this is an application of certain mineral owners in Texas County, Oklahoma for an order determining the minimum price at which gas in the Guymon-Hugoton Field may be first purchased or sold.

2. That notice by publication of the filing of the application herein, the time and place of hearing thereon and the purpose of said hearing has been regularly given in all respects as required by law; that the cause was regularly set for hearing, and the Commission has jurisdiction of the subject matter embraced in said application and all parties interested therein and jurisdiction to issue and promulgate [fol. 590] the hearinafter prescribed order.

3. That various interested parties have filed responses to the application and answers, some of which were filed during the course of the proceedings and some of which

by leave of the Commission were filed since the proceedings were closed.

4. That Mr. L. T. Cramer of the Office of Price Stabilization appeared and stated the position of that Federal Agency in respect to the application.

5. That under date of December 9th, 1946, the Commission issued its Order No. 19514, in Cause CD No. 1054, fixing the minimum price of 7¢ per thousand cubic feet of natural gas measured at a pressure base of 14.65 pounds absolute pressure per square inch for all gas taken out of the structures or formations in the Guymon-Hugoton Field, Texas County, Oklahoma; that said order was appealed to the Supreme Court of Oklahoma and the Supreme Court of the United States, both of which courts upheld the order of this Commission fixing said price and upheld the jurisdiction of the Corporation Commission to fix the price of gas in this particular field for the purpose of conservation and the protection of correlative rights.

6. That since the Commission issued its Order No. 19514, [fol. 591] the general increase in commodity prices and the use value of gas have increased throughout the Guymon-Hugoton Field and elsewhere to the point that the production and sale of said gas from said field at any price less than 9.8262¢ measured at the wellhead at a pressure base of 14.65 pounds absolute per square inch, constitutes and causes waste, both physical and economic.

7. That the taking of natural gas from the Guymon-Hugoton Field at prices and under terms and measurement now prevelant in said field results in and causes:

a. Economic waste of a great natural resource, to-wit: natural gas;
b. Actual physical waste of natural gas;
c. Loss to the royalty owners in said field;
d. Loss to the State of Oklahoma in revenues in the form of gross production taxes;
e. Inequitable taking of natural gas from the common source of supply involved;
f. Discrimination against various producers in the field.

8. That the production of natural gas in the Guymon-Hugoton Gas Field is in excess of the market demand.

9. That the conditions which existed in the Guymon-Hugoton Field after it issued its Order No. 19514 have generally continued to prevail within said field, except that [fol. 592] the price of 7¢ for gas therefrom is no longer adequate to prevent waste and protect the correlative rights of the parties therein and insure the development of and production from all of said common sources of supply during the time that facilities for the transportation from said Field to the market will be available.

10. That the representative of the Office of Price Administration stated in the record that a wellhead price for gas in said field of 9.8262¢ per thousand cubic feet measured at a pressure base of 14.65 pounds absolute per square inch will not violate the orders of the Office of Price Administration.

11. That only a small portion of the gas produced in said Field is actually sold or delivered at the wellhead and in all those instances where such sale and delivery does not occur at the wellhead, it will be necessary for the producer to determine whether or not it is realizing the equivalent of the minimum price fixed by this order; that much of the gas which is not sold at the wellhead is processed by the producer for the extraction of liquid hydrocarbons and the residue then sold during or at the conclusion of gathering; that such processing and sale during or at the conclusion of gathering constitutes the performance of a valuable [fol. 593] service to the purchaser, in that said processing conditions said gas for pipe line transmission, often including dehydration or desulphurization or both, and that the residue from numerous wells is delivered at a central point, thus eliminating the necessity for the purchaser to make substantial investments and incur substantial expenses in gathering said gas; that the liquid hydrocarbons extracted by said processing are of value to the producer but that such value fluctuates from time to time depending upon competitive conditions not within the control of such producer; that, on the average and considering the fluctuations in value of said liquid hydrocarbons, the value realized by such producer from the sale or use of said liquid

hydrocarbon does not exceed the cost of gathering and processing said gas, including a reasonable allowance for depreciation and return on investment; and that such producer, to realize a price for such gas equivalent to and not less than 9.8262 cents per thousand cubic feet at the wellhead, must receive for such processed gas a price of not less than 9.8262 cents per thousand cubic feet measured at a pressure base of 14.65 psia at a temperature of 60° F.

12. That residue gas containing 950 BTU per cubic foot saturated with water at standard conditions has a value for [fol. 594] normal uses equal to that of the average gas produced from the Guymon-Hugoton Field, but that residue gas having less than 950 BTU per cubic foot saturated with water at standard conditions does not have a value for normal uses equal to that of the average gas produced from the Guymon-Hugoton field and that, therefore, if such residue gas contains less than 950 BTU per cubic foot saturated with water at standard conditions, the minimum price for such residue gas should be in the proportion that the BTU content of such gas bears to 950 BTU per cubic foot.

13. That for the purpose of preventing waste, economic and physical, of natural gas, for the purpose of protecting correlative rights, and to insure the greatest ultimate recovery of natural gas from the reservoir involved, this Commission should not permit natural gas to be taken out of the producing formations in the Guymon-Hugoton field at a price less than 9.8262¢ per thousand cubic feet of natural gas measured at a pressure of 14.65 pounds absolute pressure per square inch.

14. That a minimum price order cannot be made fully effective and discrimination prevented without a means provided for determining the manner in which the amount realized for gas by producers operating gathering and processing plants.

[fol. 595] ORDER

It is therefore ordered by the Corporation Commission of the State of Oklahoma as follows:

1. That no gas shall be produced from any well located in the Guymon-Hugoton Field of Oklahoma except at a price of not less than 9.8262¢ per thousand cubic feet if

sold at the wellhead or on the lease or drilling unit from which produced, or a price equivalent to not less than 9.8262¢ per thousand cubic feet at the wellhead if sold off the lease or drilling unit or otherwise utilized. If the gas is sold during or upon conclusion of gathering without being processed for the extraction of liquid hydrocarbons, the price shall be not less than 9.8262¢ per thousand cubic foot plus the reasonable cost of gathering. If the gas is processed for extraction of liquid hydrocarbons and sold during or at the conclusion of gathering, the price for the residue gas shall be not less than 9.8262¢ per thousand cubic feet.

2. The minimum price specified above for the sale of residue gas after processing during or upon conclusion of gathering contemplates that said residue gas will contain at least 950 British Thermal Heating Units per cubic feet of gas saturated with water vapor at standard conditions. In the event such residue gas contains less British Thermal [fols. 596-649] Heating Units than specified above, the minimum price for such gas shall be in the proportion that the British Thermal Heating Units of such gas is to 950 per cubic foot.

3. For the purpose of this order a cubic foot of gas shall mean a volume of gas contained in one cubic foot of space measured at a pressure of 14.65 pounds per square inch absolute at a temperature of sixty degrees Fahrenheit (60° F.).

4. This order shall become and be effective the 1st day of August, 1952.

Done and performed by the Corporation Commission of Oklahoma at its offices in the Capitol Office Building, Oklahoma City, Oklahoma, this 29 day of July, 1952.

Corporation Commission of Oklahoma, (S) Reford Bond, Chairman, Ray O. Weems, Vice-Chairman, Ray C. Jones, Commissioner.

Attest: (S) Tona McMurray, Secretary.

[650] BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

[Title omitted]

* * * * * * *

MOTION TO VACATE ORDER AND FOR NEW TRIAL—Filed July 31, 1952

Protestant, Natural Gas Pipeline Company of America, moves the Commission to vacate and set aside the order entered in the above entitled cause on July 29 1952, and to grant a new trial in such proceeding. Protestant is aggrieved thereby, and says that in entering said order the Commission erred to the prejudice of protestant, materially affecting protestant's substantial rights. In support of such motion protestant says:

1. The order is wholly beyond the jurisdiction of the Commission under the statutes and constitution of the States of Oklahoma.

2. Such order is contrary to the evidence and is not supported by any evidence of probative value.

3. The order is contrary to the law.

4. The order is violative of the due process clause of the Fourteenth Amendment to the Constitution of the United States and of the due process clause of the Oklahoma Constitution in that it deprieves protestant of its property and property rights without due process of [fol. 651] law.

5. The order is violative of the Commerce Clause of the Constitution of the United States, and constitutes a burden on the operations of this protestant in interstate commerce.

6. The order is violative of protestant's contractual rights, in violation of Section 10, Article 1 of the Constitution of the United States, and deprives protestant of valuable rights under existing contracts.

7. The order constitutes a taking by the Commission of protestant's property rights and contractual rights for a purported public benefit, but in fact primarily a private benefit, without compensation, in violation of the due process clauses of the State and Federal Constitutions.

8. The order, while purporting to be one entered in the public interest, is in fact one primarily in the interest of private corporations, both of which are incorporated under the laws of the State of Delaware, namely, Phillips Petroleum Company and the Panoma Corporation, and entered for the purpose of relieving such corporations from the burdens of contracts entered into at arm's length and to impose, as a result thereof, burdens on the consumers of gas in the states of Iowa, Illinois, Wisconsin, Michigan, Indiana, Ohio, Kentucky, and other states where consumers [fol. 652] utilize residue from natural gas produced in Oklahoma; and such local benefits, if any, as may accrue are only incidental to such private relief.

9. The order goes beyond any necessities which may exist for the protection or accommodation of any public interest, if any, which may require protection.

10. Such order is violative of the Constitution of the State of Oklahoma in that it is not an order of general application within the State of Oklahoma, and the record reflects no facts which in law authorize the Commission to enter an order of such limited scope.

11. The order is discriminatory, in violation of the applicable provisions of both the State and the Federal Constitutions, in that it permits those who purchase gas at the wells to profit from future increases in the value of liquefiable constituents contained in such gas without giving protestant, who purchases only residue gas, any relief in the event the values of such liquefiable const-uents shall hereafter be increased.

12. The attempt by the Commission to fix and determine the cost of gathering gas and operations of a gasoline plant is beyond the statutory powers of the Commission, and is accomplished by the order in an arbitrary manner, without adequate evidence on which to determine such costs, [fols. 653-654] and the reasonable profits for operating such a plant.

Natural Gas Pipeline Company of America, by (S.) Coleman Hayes, One of its Attorneys.

* * * * * * *

[fol. 655] BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

[Title omitted]

NOTICE OF APPEAL, REQUEST FOR PREPARATION OF RECORD AND CERTIFICATION OF FACTS AND RECORD TO THE SUPREME COURT—Filed July 31, 1952.

Natural Gas Pipeline Company of America, a protestant in the above entitled cause, being affected and aggrieved by Order No. 26096 made and entered in this cause by the Corporation Commission of the State of Oklahoma on July 29, 1952, hereby gives notice of its intention to appeal from said order to the Supreme Court of the State of Oklahoma and requests that this notice of appeal be duly entered upon the proper dockets of the Commission as provided by law.

For the purpose of perfecting said appeal, the said Natural Gas Pipeline Company of America respectfully requests that the court reporters for said Commission be directed to transcribe and prepare a full and complete record of all pleadings, evidence, exhibits, orders, notices and testimony which were filed, given, made or introduced in the above entitled cause and that the chairman of the Commission certify to the Supreme Court of the State of Okla- [fols. 656-657] homa under the seal of the Commission and transmit to the clerk of said Court a true and complete transcript of the record so prepared together with a written statement of the reasons upon which the order appealed from was based.

Dated this 31st day of July, 1952.

Natural Gas Pipeline Company of America, by (S.) Coleman Hayes, One of Its Attorneys.

[File endorsement omitted.]

* * * * * * *

[fols. 658-659] BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

[Title omitted]

ORDER OVERRULING MOTION TO VACATE ORDER AND FOR NEW TRIAL—July 31, 1952

Now on this 31st day of July, 1952, the motion of protestant, Natural Gas Pipeline Company of America to vacate and set aside the order entered herein on the 29th day of July, 1952, and to grant protestant a new trial coming on for hearing, the Commission, having examined said motion, and having heard the argument of counsel and being fully advised, finds that said motion should be and the same is hereby in all things overruled, to which ruling of the Commission protestant excepted and its exceptions are allows-:

(S.) Reford Bond, Chairman, Ray O. Weems, Vice-Chairman, Ray C. Jones, Member.

[File endorsement omitted.]

[fol. 660] BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

[Title omitted]

STIPULATION—Filed July 31, 1952

The following facts are stipulated by the undersigned, and may be considered as evidence as if testified to by qualified witnesses:

1. Michigan-Wisconsin Pipe Line Company, hereinafter called Michigan-Wisconsin, is a Delaware corporation having its principal place of business in the city of Detroit, Michigan. It is neither qualified nor authorized to do business in the State of Oklahoma.

2. Michigan-Wisconsin Pipe Line Company owns a natural gas pipe line system originating in the State of Texas and extending through Oklahoma, Kansas, Nebraska, Mis-

souri, Iowa, Wisconsin, Illinois, Indiana, and Michigan. It operates such system under Certificates of Public Convenience and Necessity issued by the Federal Power Commission.

3. Substantially all of the gas purchased by Michigan-Wisconsin and transported through its pipe line system is [fol. 661] produced in the states of Texas and Oklahoma. In addition thereto, it is now purchasing a small amount of gas from leased acreage in the state of Kansas. In the states of Texas and Oklahoma the Phillips Petroleum Company, hereinafter called Phillips, is its sole supplier. The gas so purchased and transported is sold by Michigan-Wisconsin in the states of Missouri, Iowa, Wisconsin, and Michigan, to utilities located in the aforesaid several states, for resale by the said utilities for domestic, commercial, industrial and other uses.

Michigan-Wisconsin is a "Natural Gas Company" as defined in the Federal Natural Gas Act, and, under the applicable provisions of that Act is subject to the jurisdiction of the Federal Power Commission.

4. With respect to the purchase of natural gas produced from the Guymon-Hugoton Field of Oklahoma, Michigan-Wisconsin operations had their inception with the execution of a gas purchase contract between Michigan-Wisconsin and Phillips, dated December 11, 1945. A copy of this contract, with the amendments thereto, is hereto attached and marked Exhibit "A". Thereafter, and on December 1, 1949, the said parties entered into a contract known as the "Stratford Acreage Contract", a copy of which is hereto attached and *and* marked Exhibit "B", and on the [fol. 662] date last recited the said parties entered into a contract known as the "Gas Below Sea Level Contract", a copy of which is hereto attached and marked Exhibit "C". The latter contracts do not pertain to gas produced from the Guymon-Hugoton Field.

Under the provisions of the contract dated December 11, 1945, as amended, Michigan-Wisconsin began the purchase of gas in the year 1949.

5. Under the provisions of the contract of December 11, 1945, the gas produced from the Guymon-Hugoton Field in Oklahoma by Phillips is gathered through Phillips'

gathering system into the state of Texas, and said raw gas is in the state of Texas co-mingled with gas produced from the state of Texas. Phillips compresses and processed the raw gas produced from its wells in Oklahoma and Texas and the residue is then sold and delivered to Michigan-Wisconsin in Hansford County, Texas. Title to the said gas so produced by Phillips does not pass into Michigan-Wisconsin until it is delivered at the meter of Michigan-Wisconsin in Hansford County, Texas.

6. Michigan-Wisconsin does not own any oil and gas leasehold estates in the State of Oklahoma, nor does it produce gas in the State of Oklahoma, nor sell gas in said State. Its sole properties in the State of Oklahoma consist of a 24 inch pipe line crossing the Counties of Texas [fols. 663-673] and Beaver, together with gate valves used in connection therewith.

Dated this July 31, 1952.

(S.) T. Murray Robinson, Attorneys for Applicant, Kerr, Lambert, Conn & Roberts. (S.) by Jack T. Con, Attorneys for Michigan-Wisconsin Pipe Line Company.

Approved: (S.) Floyd Green, Attorneys for the Corporation Commission.

[fol. 674] IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 35731

NATURAL GAS PIPELINE COMPANY OF AMERICA, Plaintiff in Error,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al., Defendants in Error.

No. 35732

MICHIGAN-WISCONSIN PIPE LINE COMPANY, Plaintiff in

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al., Defendants in Error.

SUPPLEMENTAL BRIEF OF PLAINTIFFS IN ERROR—Filed Dec. 14, 1953

STATEMENT

The principal question here presented—there are, of course, others which are exhaustively treated in the briefs—is whether the Corporation Commission of the State of Oklahoma has jurisdiction to fix the price of residue gas, one constituent of natural gas, after the natural gas has been produced, gathered, transported and processed. That [fol. 675] issue has now been determined adversely to defendants in error, and it is the purpose of plaintiffs in error, Natural Gas Pipeline Company of America, hereinafter referred to as Natural, and Michigan-Wisconsin Pipe Line Company, hereinafter referred to as Michigan-Wisconsin, by this Supplemental Brief to apprise the Court of the status of the litigation in which such determination was made.

Wisconsin v. Federal Power Commission[1]

After a lengthy hearing before the Federal Power Commission, that Commission, with one member dissenting,

[1] 205 F. 2d 706.

held that it had no authority to fix the rates at which Phillips Petroleum Company, a defendant in error here, sells gas for interstate transportation and resale. Under consideration in that proceeding were sales by Phillips to Michigan-Wisconsin and to Panhandle Eastern, they being the identical sales involved here in No. 35732 and No. 35734.

On May 22, 1953, the United States Court of Appeals, District of Columbia Circuit, upon review of the Federal Power Commission's order, reversed and concluded not only that the Federal Power Commission has such authority, but that the various states, acting through regulatory bodies such as the Corporation Commission of this State, have no such power.

As was to be expected, Phillips and counsel for the Federal Power Commission placed great emphasis upon the opinions of this Court and the Supreme Court of the United States in the *Cities Service* case. Of the effect of that case, the Court of Appeals said:

> [fol. 676] "Since Phillips' sales are made after the gas has been gathered into trunk lines *Cities Service Gas Co. v. Peerless Oil & Gas Co.*, 1950, 340 U. S. 179, 71 S. Ct. 215, 95 L. Ed. 190, is irrelevant."[2]

Speaking of the precise sales here involved to Panhandle Eastern and Michigan-Wisconsin, as well as others, the Court said:

> "The Commission finds that the sales involved here are sales in interstate commerce of natural gas for resale. That finding is not disputed. *It follows that no state can regulate these sales.* It was plain long before the Natural Gas Act was passed that 'state regulatory power could not reach high-pressure trunk lines and sales for resale. This was the "gap" which Congress intended to close'." (Emphasis supplied)

Thus the Court of Appeals determined, first, that *Cities Service* is irrelevant where sales are made after production

[2] Footnote 9, page 740.

and gathering into trunk lines have been accomplished, and second, that where natural gas is sold for resale in interstate commerce, "* * *" no state can regulate these sales."

The opinion of the Court of Appeals had been promulgated at the time Natural filed its Reply Brief in No. 35731. It was called to the Court's attention at pages 6 and 14 of that brief, which was adopted by Michigan-Wisconsin in its Reply Brief in No. 35732.

On November 30, 1953, the Supreme Court of the United States denied applications for *certiorari* filed on behalf of Phillips, Federal Power Commission and the State of [fol. 677] Texas, thus permitting the opinion and judgment of the Court of Appeals for the District of Columbia to stand.

The concluding sentence in that opinion is as follows:

> "Therefore Phillips is a 'natural-gas company' within the meaning of the Natural Gas Act and the Commission should fix the rates at which these sales are made."

If Phillips is a "natural-gas company", Panoma is likewise a "natural-gas company."

The Court of Appeals, in discussing *Missouri ex rel. Barrett v. Kansas Natural Gas Co.*, 265 U. S. 298, 309, 308, 44 Sup. Ct. 544, 546, 67 L. Ed. 1027, said:

> "In that case most of the gas was sold after it crossed state lines, whereas in this case it is sold before it crosses the state line, but as appears later, this difference is immaterial."

The record here discloses that all sales to Natural and to Michigan-Wisconsin are made for resale in interstate commerce. Deliveries are made at the outlet of gasoline plants only after the raw natural gas has been produced, gathered through trunk lines, transported to a gasoline plant,[3] and there separated into its marketable constituents

[3] The sales of residue gas to Michigan-Wisconsin and Panhandle Eastern are made in Texas after natural gas, a portion of which is produced in Oklahoma, has been processed in plants located in the State of Texas.

of liquefied hydrocarbons and residue gas by Phillips and Panoma. In such circumstances, the order of the Corporation Commission is clearly beyond its power and authority.

[fols. 678-681] CONCLUSION

Natural and Michigan-Wisconsin have at all times, first before the Commission, later in their petitions in error in this Court, and in all of their briefs, asserted a complete lack of jurisdiction in the Corporation Commission to make the order here under review. The Court of Appeals has placed upon Cities Service the restrictions and limitations urged by Natural and Michigan-Wisconsin, and definitely denied the existence of jurisdiction in the Corporation Commission of the State of Oklahoma to fix the price at which the sales here involved are made. The Supreme Court of the United States has refused even to review that decision, the effect of which is, by construction of the Natural Gas Act, to place the exclusive power and authority to fix such prices in the Federal Power Commission. Since "* * * no state can regulate these sales", it inevitably follows that the order of the Corporation Commission attempting to do so should be set aside.

Respectfully submitted, C. C. McDugald, W. T. Spies, D. H. Culton, Coleman Hayes, Attorneys for Natural Gas Pipeline Company of America;

Jack T. Conn, D. H. Culton, Coleman Hayes, Arthur R. Seder, Jr., Attorneys for Michigan-Wisconsin Pipe Line Company.

December, 1953.

[fol. 682] In the Supreme Court of the State of Oklahoma

No. 35731

Natural Gas Pipeline Company of America, Plaintiff in Error,

v.

The Corporation Commission of the State of Oklahoma, et al., Defendants in Error.

No. 35732

Michigan-Wisconsin Pipe Line Company, Plaintiff in Error,

v.

The Corporation Commission of the State of Oklahoma, et al., Defendants in Error.

No. 35734

Panhandle Eastern Pipe Line Company, Plaintiff in Error,

v.

The Corporation Commission of the State of Oklahoma, et al., Defendants in Error.

Supplemental Brief of Defendant in Error Phillips Petroleum Company— Filed Feb. 12, 1954

[fol. 683] In oral argument plaintiffs in error for the first time argued that the decision of the United States Court of Appeals for the District of Columbia Circuit in Wisconsin v. Federal Power Commission, 205 F. 2d 706 (1953), is controlling of the issues in these cases. On the day following the oral argument Phillips was served with a supplemental brief by plaintiffs in error Natural Gas Pipeline Company of America and Michigan-Wisconsin Pipe Line Company further arguing the controlling effect of such decision.

It is to answer this new contention that this supplemental brief is filed.

The decision in Wisconsin v. Federal Power Commission has no bearing on these cases.

The basis of plaintiffs in error's argument is that the Circuit Court in the Wisconsin case held that the Federal Power Commission has jurisdiction under the Natural Gas Act, 15 U. S. C. § 717 et seq., to regulate sales by Phillips of residue from the gas here involved and that the order of the Corporation Commission is an attempt to regulate the same sales and for that reason invalid.

Since the oral argument and filing of Natural and Michigan-Wisconsin's supplemental brief herein, the Supreme Court of the United States on January 19, 1954, granted certiorari in the Wisconsin case and hence the decision [fol. 684] relied upon by plaintiffs in error is not final. Assuming it to be final, however, it has no bearing here.

The argument of plaintiffs in error in such regard is subject to the same fallacy present in their argument in respect to the commerce clause, namely, that the order of the Corporation Commission is an attempt to directly regulate the sales of gas after gathering or after gathering and processing, as distinguished from an order regulating its production.

The jurisdiction of the Federal Power Commission, if it has jurisdiction (which we deny), is of the sale itself after production and gathering. It attaches after production has occurred and the gas is available for sale. The Natural Gas Act in defining the jurisdiction of the Federal Power Commission expressly excludes the "production and gathering" of gas, 15 U. S. C. § 717(b).

The order of the Oklahoma Corporation Commission is not a regulation of the sale but of production, which in the interest and for purposes of conservation and protection of correlative rights establishes what a producer must obtain for the gas, no matter where or how sold, as a condition to the right to produce. Although affecting the sale price, its impact is on the producer before production and before the gas is available for sale.

Plaintiffs in error in their briefs and in oral argument recognize the power and authority of the Corporation Commission to make such an order prohibiting production un- [fol. 685] less and until the producer obtains a prescribed

minimum price or its equivalent at the wellhead. Such was the decision of this Court and of the Supreme Court of the United States in the case of Cities Service Gas Co. v. Peerless Oil & Gas Co., 203 Okl. 35, 220 P. 2d 279, affirmed 340 U. S. 179, 95 L. ed. 190. This Court in the Cities Service case said:

> "We do not perceive that the commerce clause of the Federal Constitution precludes the state in the protection of local interests from fixing a uniform minimum price consideration as a condition of the taking of natural gas from a common reservoir because a producer therefrom may have contracted or will contract for sale and delivery of his share of the production outside the state, or because a purchaser from such producer will sell and transport the gas in interstate commerce." (220 P. 2d 291.)

And again:

> "The regulation applies to the production of natural gas and though it results in an incidental effect upon the sale price for gas after the gas has been reduced to possession, the subsequent sale of the gas for delivery into another state does not brand the Commission order as a regulation of interstate commerce. The regulation is imposed before any operations of interstate commerce occur." (220 P. 2d 290-291.)

If the fixing of a "minimum price consideration as a condition of the taking of natural gas from a common reservoir", even though "it results in an incidental effect upon the sale price of gas" delivered "into another state", does not "brand" the order "as a regulation of interstate commerce" and is not violative of the commerce clause, [fol. 686] as held by this Court and affirmed by the Supreme Court of the United States in the Cities Service case, such an order cannot be invalid as violating the jurisdiction of the Federal Power Commission, which is derived under the commerce clause.

In order then for plaintiffs in error to argue the controlling effect of Wisconsin v. Federal Power Commission they must first establish that the Commission order is an

attempt to directly regulate the sales of gas after gathering or of residue, as distinguished from a regulation of production conditioned on what the producer gets for the gas. This they seek to do by misreading the order and asserting without foundation that it is the former. The validity of such assertion is vital to their argument. If it fails, the whole argument with respect to Wisconsin v. Federal Power Commission and the commerce clause fails.

The erroneous basis for the assertion that the order is one directly regulating the sale of the gathered or residue gas, as distinguished from an order regulating production, was most concisely stated and illustrated in the oral argument of Mr. Coleman Hayes, attorney for Natural Gas Pipeline Company. He emphasized that these cases should turn upon what the order says and then undertook to demonstrate that the order was merely one establishing a price for the gas after gathering and processing by referring only to the second and third, and particularly the [fol. 687] third, sentences of Paragraph 1 of the Commission's order, which read as follows:

> "If the gas is sold during or upon conclusion of gathering without being processed for the extraction of liquid hydrocarbons, the price shall be not less than 9.8262¢ per thousand cubic feet plus the reasonable cost of gathering. If the gas is processed for extraction of liquid hydrocarbons and sold during or at the conclusion of gathering, the price for the residue gas shall be not less than 9.8262¢ per thousand cubic feet." (R.549.)

The first sentence of the same paragraph and which immediately precedes the two just quoted, but which Mr. Hayes did not read, is as follows:

> "That no gas shall be produced from any well located in the Guymon-Hugoton Field of Oklahoma except at a price of not less than 9.8262¢ per thousand cubic feet if sold at the wellhead or on the lease or drilling unit from which produced, or a price equivalent to not less than 9.8262¢ per thousand cubic feet at the wellhead if sold off the lease or drilling unit or otherwise utilized." (R. 549.)

We agree with the statement that these cases should turn upon "what the order says" but assert that the order must be read and interpreted in its entirety and that its meaning is not to be determined by the reading of one or two isolated sentences. This Court has said that in considering a legislative enactment it is not safe to base a construction upon a particular word or phrase but that the several provisions thereof must be construed together in the light of its general purpose and object. Meads v. Human, 84 Okl. 82, 202 P. 797 (1921).

[fol. 688] Plaintiffs in error completely ignore the fact that the two sentences on which they rely, standing alone, are meaningless and can be given meaning only when read in conjunction with the first sentence of the paragraph and the findings upon which the order is based. Both sentences begin with the words "If the gas". What gas? To know what gas the sentences are talking about, it is necessary to refer to the first sentence, which says, "That no gas shall be produced from any well located in the Guymon-Hugoton Field of Oklahoma except at a price", etc. Both sentences recite that "the price" shall be, etc. What price, payable by whom to whom, and for what purpose? Again it is necessary to refer to the first sentence to determine that it is "the price" that must be obtained by the producer as a condition to production.

Taken together, the three sentences which comprise the first paragraph of the order merely and clearly prescribe the price, or its equivalent, the producer must obtain at the wellhead as a condition to the production of the gas. Under the first sentence the gas if sold "at the wellhead or on the lease or drilling unit from which produced" must bring 9.8262¢ per thousand cubic feet, or, if sold or otherwise utilized "off the lease or drilling unit", it must be a price "equivalent" to such wellhead price. The second and third sentences are merely supplemental to the first sentence and spell out and for clarity define what is required to constitute the "equivalent" of the wellhead [fol. 689] price under certain named circumstances prevalent in the field where the gas is not sold at the wellhead.

That this is the true meaning of the order is made doubly clear by the findings on which the order is based.

In Finding No. 6 the Commission said that general commodity prices and the use value of gas have increased throughout the Guymon-Hugoton Field and elsewhere to the point that "the production and sale of said gas from said field at any price less than 9.8262¢ measured at the wellhead * * *, constitutes and causes waste, both physical and economic."

In Finding No. 11 the Commission said:

> * * * and in all those instances where such sale and delivery does not occur at the wellhead, it will be necessary for the producer to determine whether or not it is realizing the equivalent of the minimum price fixed by this order; that much of the gas which is not sold at the wellhead is processed by the producer for the extraction of liquid hydrocarbons and the residue then sold during or at the conclusion of gathering; * * * and that such producer, to realize a price for such gas equivalent to and not less than 9.8262 cents per thousand cubic feet at the wellhead, must receive for such processed gas a price of not less than 9.8262 cents per thousand cubic feet * * *."

In Finding No. 13 the Commission said:

> "That for the purpose of preventing waste, economic and physical, of natural gas, for the purpose of protecting correlative rights, and to insure the greatest ultimate recovery of natural gas from the reservoir involved, this Commission should not permit natural gas to be taken out of the producing formation in the Guymon-Hugoton Field, at a price less than 9.8262¢ per thousand cubic feet of natural gas measured at a [fol. 690] pressure of 14.65 pounds absolute pressure per square inch."

The first sentence under the subheading "Order" reads: "It Is therefore Ordered by the Corporation Commission of the State of Oklahoma as follows:".

Then follows Paragraph 1 of the order containing the three sentences, two of which were singled out and relied upon by Mr. Hayes in his argument.

It is thus clear that the findings and all portions of the order are to be read and treated as an entirety. When thus read it is clear that the provisions with respect to the price of gas after gathering and of the residue where processed are but a means of determining whether or not the equivalent of the wellhead price has been obtained where the gas is first gathered or processed by the producer before being sold. The order is one to regulate the production of gas; not the sale price of the residue. If such an order is not valid then the requirement, heretofore held to be valid, that no gas be produced unless the producer obtains the equivalent of a certain price at the wellhead, could be easily and simply avoided by merely selling the gas elsewhere than at the wellhead.

The order thus interpreted is in substance and effect no different from the original 7¢ order sustained by this Court and the United States Supreme Court in the Cities Service case but merely says in express language what the [fol. 691] Commission and the Court have said that the 7¢ order was intended or by implication said.

The Corporation Commission in its Order No. 19702, entered upon application of Phillips to clarify the 7¢ order in respect to gas which before being sold was first gathered and processed, in part the same gas and the identical method of operation here involved, which order was before this Court and affirmed in the Cities Service case, said:

> "5. * * * that said orders were meant to prohibit the production of natural gas from the producing formations in said field unless same was sold at a price of 7¢ per thousand cubic feet * * *, if same were sold, but if not sold, that said gas should be so utilized and/or sold, that the producer would realize therefrom the equivalent of 7¢ per thousand cubic feet at the wellhead * * *."

And again:

> "6. That inefficient and wasteful utilization of natural gas produced in said field have resulted and will result, unless producers in said field receive for said natural gas or realize the equivalent of 7¢ per thousand cubic feet of natural gas at the wellhead, * * *."

Thus the 7¢ order involved in the Cities Service case was intended to and did in effect provide that in respect to gas not sold at the wellhead the producer as a condition to his right to produce must obtain therefor, no matter where sold or utilized, the equivalent of the wellhead price. The only difference then between that order and the 9.8262¢ [fol. 692] order here involved is that under the 7¢ order the producer had the burden of determining for himself whether in instances where the gas was sold or utilized elsewhere than at the wellhead, he was receiving the equivalent of 7¢ per thousand cubic feet at the wellhead, whereas under the 9.8262¢ order here involved the Commission stated more clearly what would constitute the equivalent of the wellhead price under such circumstances. So far as constituting a regulation of the price to be received for the gathered or residue gas is concerned, the effect of the two orders is identically the same. This Court and the Supreme Court of the United States having sustained as valid the 7¢ order, it follows that the 9.8262¢ order is likewise valid.

If the Commission has no control over the price received by the producer where the gas is gathered or processed before being sold, it would have no control whatever over producers like Phillips who do not sell their gas at the wellhead. Yet, in the case of Phillips Petroleum Co. v. State of Oklahoma, 340 U. S. 190, being Phillips' appeal to the United States Supreme Court from the 7¢ price order, that court said: "In a field which constitutes a common reservoir of gas, the Commission must be able to regulate the operations of all producers or there is little point in regulating any." Thus, to say that the Commission cannot now prescribe what Phillips and other pro- [fol. 693] ducers similarly situated must get for their gathered or residue gas is to say that it is without power to regulate any, the effect of which would be to reverse the decision by this Court and the United States Supreme Court sustaining the 7¢ order in the Cities Service case.

If the order in question is one designed to regulate the production of gas for the purpose of conservation, the protection of correlative rights, or other purpose of legitimate state interest, then the fact that such order may in

effect conflict with the powers of the Federal Power Commission under the Natural Gas Act does not mean that the order is for that reason invalid, because under such circumstances the United States Supreme Court in the case of Interstate Natural Gas Co. v. Federal Power Commission, 331 U. S. 682, 690 (1947), has said the power of the state would take precedence and the jurisdiction of the Federal Power Commission would not attach. In respect to the exemption of "production and gathering" under the Natural Gas Act, the court in that case said:

> "The purpose of that restriction was, rather, to preserve in the States powers of regulation in areas in which the States are constitutionally competent to act. Thus the House Committee Report states: 'The bill takes no authority from State Commissions, and is so drawn as to complement and in no manner usurp State regulatory authority * * *.' Clearly, among the powers thus reserved to the States is the power to regulate the physical production and gathering of natural gas in the interests of conservation or of any other consideration of legitimate local concern. It was the in- [fol. 694] tention of Congress to give the States full freedom in these matters. Thus, where sales, though technically consummated in interstate commerce, are made during the course of production and gathering and are so closely connected with the local incidents of that process as to render rate regulation by the Federal Power Commossion inconsistent or a substantial interference with the exercise by the State of its regulatory functions, the jurisdiction of the Federal Power Commission does not attach."

The power of the state and the Corporation Commission is therefore not dependent upon whether there will be a conflict with the jurisdiction and regulations of the Federal Power Commission. On the contrary, the power to enact regulations for the conservation of gas or otherwise regulating the production of gas has been expressly reserved to the states. The order here involved constitutes a valid exercise of that reserved power.

Certainly, in view particularly of the above language of

the Supreme Court of the United States, this Court should not abdicate state powers upon the suggestion of possible conflict.

Conclusion

Wisconsin v. Federal Power Commission is wholly irrelevant to any issues herein. Plaintiffs in error's argument concerning it adds nothing to show that the Commission's order is invalid. On the contrary, the decisions of the United States Supreme Court under the Natural Gas Act serve to strengthen the validity of the order. For [fols. 695-698] these reasons and for the reasons stated in our earlier briefs, we respectfully request that the Commission's order be affirmed.

Respectfully submitted, Rayburn L. Foster, Harry D. Turner, R. M. Williams, Kenneth Heady, Bartlesville, Oklahoma; Cecil C. Hamilton, 1211 First National Building, Oklahoma City, Oklahoma. Attorneys for Defendant in Error, Phillips Petroleum Company.

February, 1954.

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[fol. 699] IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 35731

NATURAL GAS PIPELINE COMPANY OF AMERICA, Plaintiff in Error,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, ET AL., Defendants in Error.

No. 35732

MICHIGAN-WISCONSIN PIPE LINE COMPANY, Plaintiff in Error,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, ET AL., Defendants in Error.

RESPONSE OF PLAINTIFFS IN ERROR, NATURAL GAS PIPELINE COMPANY OF AMERICA AND MICHIGAN-WISCONSIN PIPE LINE COMPANY—Filed March 22, 1954

Statement

Eight weeks after these cases were orally argued, Phillips Petroleum Company filed a "Supplemental Brief" in the above cases and in *No. 35734, Panhandle Eastern Pipe* [fol. 700] *Line Company* v. *The Corporation Commission of the State of Oklahoma et al.* It is the purpose of Natural and Michigan-Wisconsin to respond briefly to the contentions made in such Supplemental Brief, and to suggest to the Court that decisions in these cases be deferred pending final disposition of several cases now pending in the Supreme Court of the United States which are believed to be highly material, if not actually controlling, here.

State of Wisconsin v. Federal Power Commission [1]

At the time of the argument of these cases, the Supreme Court of the United States had denied certiorari to the

[1] 205 F. 2d 706.

Court of Appeals for the District of Columbia. Subsequently, certiorari was granted and it is understood that the case will probably be argued about April 6, 1954. The opinion of the Court of Appeals contains three positive conclusions. After pointing out that the sales there involved (they were the identical sales here involved by Phillips to Panhandle and Michigan-Wisconsin) "are sales in interstate commerce of natural gas for resale," the Court stated: "It follows that no state can regulate these sales." In discussing the provisions of the Natural Gas Act, the Court of Appeals further held: "The exemption of production or gathering does not exempt sales made after production and gathering have been completed." The concluding sentence in the opinion is as follows: "Therefore, Phillips is a 'natural gas company' within the meaning of the Natural Gas Act, and the Commission should fix the rates at which these sales are made."

[fol. 701] Cities Service Gas Company v. Peerless Oil & Gas Company [2]

As has been true since the inception of this litigation, Phillips places great emphasis upon the decision of this Court and that of the Supreme Court of the United States in the so-called Cities Service case. The substance of the holding in that case is contained in a quotation therefrom appearing at page 4 of Phillips' Supplemental Brief. It will be noted that in that case the Court conceived the regulation to result only "in an incidental effect upon the sale price for gas," and that "the regulation is imposed before any operations of interstate commerce occur." The record in this case discloses, and it cannot be successfully contended otherwise, that the present regulation,[3] rather than having only an "incidental effect" upon the sale price of gas, specifically fixes that price, and furthermore that the

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[2] 340 U. S. 179.

[3] The order here involved provides, "If the gas is processed for extraction of liquid hydrocarbons and sold during or at the conclusion of gathering, the price for the residue gas shall be not less than 9.8262 cents per thousand cubic feet."

regulation, instead of being imposed before any operation of interstate commerce occurs, is imposed at a time and place wher the gas "is not only actually committed to but is moving in interstate commerce."[4]

The *Cities Service* case was urged upon the Court of Appeals in the *Wisconsin* v. *Federal Power Commission* case. That Court disposed of the contention by simply pointing out that the sales by Phillips are made after the [fol. 702] gas has been gathered into trunk lines and therefore *"Cities Service Gas Company v. Peerless Oil & Gas Company*, 340 U. S. 179, *is irrelevant."*

The limited nature of the holding in the *Cities Service* case was also pointed out by the Court of Appeals for the Eighth Circuit in *State Corporation Commission of Kansas* v. *Federal Power Commission*.[5] The Court there held that the Kansas "attribution" order could not be enforced as to production in that state by a natural gas company which sells its gas in interstate commerce. The Kansas case is now pending before the Supreme Court of the United States on petition for rehearing after denial of certiorari.

Michigan-Wisconsin Pipe Line Company v. Robert S. Calvert et al. and Panhandle Eastern Pipe Line Company v. Robert S. Calvert et al.[6]

Subsequent to the argument in these cases, the Supreme Court of the United States in a unanimous opinion held a so-called "gathering tax" statute of the State of Texas unconstitutional because violative of the Commerce Clause of the Constitution of the United States. There were involved in those cases the identical sales by Phillips to Michigan-Wisconsin and Panhandle Eastern here involved. The Texas statute purported to impose a tax upon the "gathering of natural gas" in that state. The tax was measured "by the entire volume of gas 'taken'

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[4] Michigan-Wisconsin Pipe Line Company, Appellant v. Robert S. Calvert et al., decided February 8, 1954, by the Supreme Court of the United States.

[5] 206 F. 2d 690.

[6] Decided by the Supreme Court of the United States on February 8, 1954, but not yet reported.

as applied to an interstate natural gas pipeline company." According to the opinion, "The taxable incidence is the [fol. 703] taking of gas from the outlet of an independent gasoline plant within the state for the purpose of immediate interstate transmission."

There, as here, much emphasis was placed upon the fact that "These conservation and proration measures has (have) afforded great benefits and protection to pipeline companies." The Court observed that such considerations are important only in determining whether the requirements of due process have been met and that the objections there made were based on the Commerce Clause. In speaking of the incidence of the tax, the Supreme Court pointed out, "This event, as stipulated, occurs after the gas has been produced, gathered and processed by others than appellants." In such circumstances the Court concluded, "We are, therefore, of the opinion that the taking of the gas here is essentially a part of interstate commerce itself," and further, "but the tax here is not levied on the capture or production of the gas, but rather on its taking into interstate commerce after production, gathering and processing." Petitions for rehearing were denied in these cases on March 15, 1954.

Interstate Natural Gas Co. v. Federal Power Commission [7]

Phillips relies in its Supplemental Brief upon the *Interstate Natural Gas Company* case, and quotes excerpts from that opinion which have to do with the exemptions contained in the Natural Gas Act. The *Interstate* case was urged upon the Court of Appeals in the *State of Wisconsin* v. *Federal Power Commission* case. That Court discussed [fol. 704] at some length the holding and implications of that case, noting that among the powers reserved to the states under the Natural Gas Act "is the power to regulate the physical production and gathering of natural gas * * *." No question of the right of the Commission to regulate the "physical" production and gathering of natural gas is here involved. Rather, the question is, may the Corporation

[7] 331 U. S. 682.

Commission validly fix the price at which residue gas is sold after production, gathering and processing have occurred "to pipeline companies for resale in other states." In *State of Wisconsin* v. *Federal Power Commission*, the *Interstate* case was held to support rather than conflict with the conclusion there reached.

Phillips Petroleum Company v. State of Oklahoma [8]

It is again urged that the order here involved should be sustained because of a statement made by the Supreme Court of the United States in a companion case to the *Cities Service* case that the Corporation Commission should be able to regulate all producers or there is little point in regulating any.

A complete answer to Phillips' contention is that the Court was there dealing with a wellhead price, and that the Commerce Clause was not involved. Questions of propriety and policy within the power or jurisdiction of the Commission are not here involved. The Commission either has the power to fix the price of residue gas after production, gathering and processing have occurred and the gas [fol. 705] is actually moving in interstate commerce or it has no such power. This issue is clearly presented in *State Corporation Commission of Kansas* v. *Federal Power Commission*. The Court of Appeals for the Eighth Circuit evidently found no merit in the contention here made by Phillips, for it clearly differentiated between the situation of an interstate pipeline company which produces its own gas and that of producers which are not natural gas companies under the Natural Gas Act.

The Present Order

The order here involved, unlike that which was before this Court and the Supreme Court of the United States in the *Cities Service* case, is not one which "is imposed before any operations of interstate commerce occur." [9] On

[8] 340 U. S. 190.

[9] Cities Service Gas Company v. Peerless Oil & Gas Company, supra.

the contrary, its impact is upon the sale at the outlet of a gasoline plant of the residue constituents after the gas has been produced, gathered, and processed. In plain and unmistakable language the order so states, and the fact that the residue is a portion of natural gas which was produced in the regulated field is of no consequence if the incidence of the regulation is upon the sale itself.

It will not do to argue as Phillips does, that notwithstanding the clear language of the order it merely constitutes a formula by which an equivalent of the wellhead price is determined. It is admitted that the practical effect of the order on the pipeline companies is to give them a choice between paying the increased price or suffering the loss of their supplies of gas, either of which constitutes a [fol. 766] real and serious regulation of interstate commerce. In *International Textbook Co.* v. *Pigg*, 217 U. S. 91, 112, the Supreme Court said:

> "It is the established doctrine of this court that a State may not, in any form or under any guise, directly burden the prosecution of interstate business."

Whatever the dialectics employed, therefore, the practical result of the Commission's regulation is to regulate interstate commerce in a manner violative of the Commerce Clause of the Federal Constitution.

The fact that the present order contains separate paragraphs relating to different situations, instead of sustaining Phillips' contention, simply demonstrates beyond all doubt that the Commission deliberately and intentionally divided the procedure followed by producers into three distinct categories, (1) where gas is sold at the wellhead; (2) where gas is sold during or at the conclusion of gathering but before processing; and (3) where the gas is sold after it has been processed.

It would seem that this belabored reasoning is simply an ingenious effort to save the order which, if construed according to its plain meaning and intent, must fall.

In a similar effort the Commission, in its Brief in No. 35731, at page 66, says: "If the order is not complied with by a producer he might be prohibited from producing, and

that is all" (Emphasis supplied). At page 96 of the same Brief it is said: "The purchaser is not violating the Commission's order by buying gas for less than the minimum price. *Coercive Action can be taken only against the pro-* [fol. 707] *ducer at the point where the gas is produced"* (Emphasis supplied).

These statements are simply beyond comprehension when viewed in the light of the fact that in the *Panoma* case (No. 35203), the Commission actually entered a "coercive order" against Natural, and seeks in this Court affirmance of that order.

Conclusion

If, (1) as held by the Court of Appeals in *State of Wisconsin* v. *Federal Power Commission*, "* * * no state can regulate these sales," and "the exemption of production or gathering does not exempt sales made after production and gathering have been completed," and "* * * the Commission should fix the rates at which these sales are made," and as pointed out, since the sales by Phillips are made after the gas has been gathered into trunk lines, "*Cities Service Gas Company* v. *Peerless Oil & Gas Company*, 340 U. S. 179, is irrelevant," or (2) as held by the Supreme Court of the United States in the Texas gathering case, "* * * the taking of the gas here is essentially a part of interstate commerce itself," the order here involved cannot stand.

Since the Wisconsin and Kansas cases are pending in the Supreme Court, the Wisconsin case for argument, and the Kansas case on petition for rehearing after denial of certiorari, it would seem that this Court might well defer decisions in these cases pending final disposition of those above referred to by the Supreme Court of the United States.

[fol. 708] This suggestion is made notwithstanding the sincere belief that the order here is invalid for the additional reasons presented in the original and reply briefs of plaintiffs in error, and should for these reasons be set aside

irrespective of the final action of the Supreme Court of the United States, in the cases there pending.

Respectfully submitted, C. C. McDugald, W. T. Spies, D. H. Culton, Coleman Hayes, Attorneys for Natural Gas Pipeline Company of America; Jack T. Conn, D. H. Culton, Coleman Hayes, Arthur R. Seder, Jr., Attorneys for Michigan-Wisconsin Pipe Line Company, Plaintiffs in Error.

March, 1954.

[fol. 709] [File endorsement omitted]

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 35,731

NATURAL GAS PIPELINE COMPANY OF AMERICA, Plaintiff in Error,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al., Defendants in Error.

No. 35,732

MICHIGAN-WISCONSIN PIPE LINE COMPANY, Plaintiff in Error,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al., Defendants in Error.

No. 35,734

PANHANDLE EASTERN PIPE LINE COMPANY, Plaintiff in Error,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al., Defendants in Error.

MAJORITY OPINION—April 27, 1954

[fol. 710] Syllabus

1. Under the regulatory power of the Corporation Commission for conservation purposes it can fix a minimum

price which must be obtained for natural gas as a condition precedent to the taking of natural gas or any component part thereof from the structures. Such an order, even though most of the gas so taken from the structures will eventually be sold outside this state, does not place a embargo or unlawful restriction upon interstate commerce, unlawfully impair the obligation of contracts or violate due process. The regulation is imposed before any movement in interstate commerce occurs.

2. Having fixed a minimum price as a condition precedent to the taking of natural gas from the structures, in furtherance of the power to regulate such taking for conservation purposes the Commission may require a producer who does not sell raw gas at the wellhead or one who processes such raw gas for the purpose of breaking it into component parts before delivery to obtain therefor a price equivalent to the fixed minimum price of raw gas at the wellhead. This is necessary in order to prevent discrimination and ensure that all producers will be regulated alike. In doing this it may prescribe a formula or method by which such producer may obtain such equivalent price, it is only necessary that such formula or method so established be reasonable and practically effective to carry out the purpose for which it is made.

[fol. 711] 3. Record examined and held; That the order of the Corporation Commission is based upon basic findings of fact and is supported by substantial evidence. Certain mineral owners made application to have a minimum price fixed for gas produced in the Guymon-Hugoton natural gas field. Certain producers in said field protested such price fixing. From order of the Commission fixing the price of raw gas at the wellhead, the price of raw gas sold off the lease, and the price of residue gas after processing operations three producers, Panhandle Eastern Pipeline Company, Michigan-Wisconsin Pipeline Company, and Natural Gas Pipeline Company of America appeal. The three appeals are here consolidated.

Affirmed

C. C. McDugald, W. T. Spies, D. H. Culton, Coleman Hayes, Attorneys for Natural Gas Pipeline

Co. of America, Jack T. Conn, D. H. Culton, Cole-
[fol. 712] man Hayes, Arthur R. Seder, Jr., Attorneys for Michigan-Wisconsin Pipe Line Co., Ross Rizley, L. E. Tyron, Orlando F. Sweet, Edward H. Lange, Mark H. Adams, William I. Robinson, Attorneys for Panhandle Eastern Pipe Line Co. For Plaintiffs in Error.

Cecil C. Hamilton, Oklahoma City, Okla., Rayburn L. Foster, Harry D. Turner, R. M. Williams, Kenneth Heady, Bartlesville, Oklahoma, Phillips Petroleum Co., Floyd Green, Ferrill Rogers, Attorneys for Corporation Commission, T. Murray Robinson, Leon Shipp, Oklahoma City, Oklahoma, Vincent Dale, Guymon, Oklahoma, Attorneys for Members of Texas County Land and Royalty Association. For Defendants in Error.

[fol. 713] ARNOLD, J:

Certain mineral owners in Texas County, Oklahoma, filed an application before the Corporation Commission for an order determining the minimum price at which gas produced from the Guymon-Hugoton field may be first purchased or sold. Certain producers and purchasers of gas from said field filed their protests and responses. From the Commission's order fixing minimum price at which such gas may be sold Natural Gas Pipeline Company, Michigan-Wisconsin Pipe Line Company and Panhandle Eastern Pipeline Company have filed their separate appeals, here consolidated.

On behalf of the applicant mineral owners the evidence reasonably tends to show that the Corporation Commission by its order No. 19514 issued effective February 1, 1947, fixed the minimum price at which gas may be produced and taken from the structure in this field at 7¢ per thousand cubic feet; that since that date the price of all other industrial fuels has substantially increased; that comparing the other industrial fuels in most common use, such as coal, residual, crude oil, kerosene, and gasoline with gas on an [fol. 714] energy content basis the fuel source cost of natural gas is about one third that of coal (the lowest in

price per energy content unit of all the other industrial fuels) and the other fuels increase in cost per energy content unit to the highest, gasoline, which is almost fourteen times greater; that natural gas since 1938 has been lower in price in comparison to the heat energy content than any other fuel because gas has not been on a competitive market while the other fuels are and have been; that in 1950 natural gas supplied 20.94% of the total of mineral energy supplied, produced, and used as fuel in the United States and received only 5.16% of the total dollar income for all energies at their source; that in order to have the same price differential between gas and other fuels as existed in 1947 when the former order of the Commission was entered the price of natural gas would have to be set at 12.64% per thousand cubic feet that to compare favorable with other industrial fuels the price should be 25 or 30 cents per 1000 m. c. f.; that increasing the price of gas as taken from the structure would tend to conserve gas and prevent physical waste in that the higher price would allow wells in fringe areas of the field to be drilled and [fol. 715] operate at a profit whereas if a price increase is not given such wells cannot economically and will not be drilled resulting in non-development of the field, loss to the owners in such fringe areas and damage to their rights in the common source of supply; that better and more expensive methods of production would be economically feasible which would tend to conserve gas and eliminate the necessity of blowing out the wells to clean them; that the entire Hugoton field is a single reservoir extending from the Texas panhandle across Texas County and into Kansas; that if the fringe wells are not drilled the gas will migrate to existing wells, causing loss to the fringe owners; that the higher price is necessary while marketing facilities are available and if fringe wells were not drilled until the rest of the field was abandoned very little gas would be left in the reservoir and there would be no marketing facilities available therefor; that about 99% of the gas produced in the Guymon-Hugoton field is transported out of the state of Oklahoma; that the land owner who owns a quarter section of land gets approximately $1 per day on the average well royalty; that the field as a

whole is producing more gas than it did five years ago [fol. 716] but the individual wells are producing less; that gas of the same quality is sold by different producers in this field at prices varying from the 7¢ minimum now in effect to 9.95781¢; that none of the mineral owners were consulted as to the price they would receive for their gas and that they are dissatisfied with the prices they are receiving and want a uniform price throughout the field; that since 1946 there has been a tremendous increase in the demand for natural gas as a fuel and the costs of production have likewise materially increased; that since the 7¢ minimum was fixed several contracts for gas have been negotiated at a price of 9.8¢ per thousand cubic feet; that to protect the interest of the state of Oklahoma a price for gas in Oklahoma should be fixed which would produce the maximum revenue consistent with the policy of maintaining the markets; that a price of 9.8262¢ would not affect the market, would allow thin acreage to be developed and produced preventing migration and allowing full development of the field, thus protecting the correlative rights of the owners.

[fol. 717] Over the objection of other producer respondents in the hearing Phillips Petroleum Company was allowed to introduce evidence which reasonably tends to show that in the Guymon-Hugoton field it is primarily a producer of gas from its own wells and leases; that it does not sell its gas at the wellhead but, under commitment of long term contracts with Michigan-Wisconsin Pipeline Company and Panhandle Eastern Pipeline Company it gathers the gas which it produces in its own gathering lines, moves the gas to its two processing plants, one in Hansford County and the other in Sherman County, Texas, about a mile and a quarter south of the Oklahoma line, and there removes liquid hydrocarbons and delivers the dry or residue gas to said companies; that in addition to the gas which it produces Phillips has contracts with certain other producers by which it purchases gas at their wellheads which gas it gathers processes and sells in the same manner as the gas from its own wells and leases; that the production from its own leases is 14% of the total production of the field and the gas it purchases is 4.4% of the field total,

making a total of gas which it produces or purchases of 18.4% of the field total; that the geographical location of the processing plants across the state line is a mere incident, they being so located because the site is more cen- [fol. 718] trally located in respect to Phillips' gathering operations in both Texas and Oklahoma; that the value of the liquid hydrocarbons extracted from the raw gas by Phillips in these plants varies with market conditions as does the cost of gathering the gas; that in the process of gathering and extraction some of the gas is used for fuel purposes and some is lost through shrinkage; that after allowing depreciation to date Phillips has invested in the Hansford and Sherman plants and the gathering systems serving them in excess of 19 million dollars; that all of the gas produced and purchased by Phillips in this field is sold after the extraction of liquid hydrocarbons as residue gas elsewhere than at the wellhead; that the acreage from which it produces and purchases gas is dedicated for the life of the production to the performance of its contracts with Panhandle and Michigan-Wisconsin; that after processing at these plants at Hansford and Sherman the residue gas is delivered into the interstate pipelines of these two companies; that the contracts with both Panhandle and Michigan-Wisconsin provide in great detail as to how the gas shall be processed and the constituents and heat energy content of the residue gas delivered to them; that besides [fol. 719] Phillips only Panoma and Plains Natural Gas Company produce, gather, and process their own gas in this field and sell it in interstate commerce; that Phillips is the only company in the field that both buys gas at the wellhead for processing in addition to processing its own gas; that the gathering and processing of the gas produced in Oklahoma is part of one continuous overall production; that the value of the products extracted from the gas in Oklahoma from this field, although a fluctuating figure, about equals the cost of gathering and the cost of processing; that in order for Phillips to obtain the equivalent of 9.8262 cents per thousand cubic feet at the wellhead for the gas which it produces it must receive 9.8262 for the residue gas after processing; that if Phillips does not obtain such price for residue gas but is forced to sell it at

the price called for by its contracts with Panhandle and Michigan-Wisconsin such a loss would result that Phillips would be forced to close down its producing, gathering, and processing operations; that there is no other market for its gas; that if Phillips were forced to construct another processing plant inside the borders of Oklahoma the unit cost would be much higher than it is under the present arrangement whereby the same plants can process both [fol. 720] Oklahoma and Texas gas; that the total cost of gathering and processing when deducted from the value received for the liquid hydrocarbons extracted leaves only a minute fraction of a cent for earning rate on the investment; that out of 1000 wells currently producing in this field gas is sold at the wellhead from only 141 of them and the remaining gas produced in this field by all companies is sold at points elsewhere than at the wellhead.

Cities Service Gas Company, Northern Natural Gas Company, and Natural Gas Company introduced stipulations outlining their respective operations and showing that they purchased both raw gas at the wellhead and processed gas and sold most of such gas in interstate commerce. The various contracts and amendments or modifications thereof between Phillips, Panhandle Eastern, and Michigan-Wisconsin were introduced in evidence.

The Commission entered its findings to the effect that since the date of its last order in 1947 fixing the minimum price of gas at the wellhead 7 cents commodity prices in [fol. 721] general and the use value of gas had so increased that the sale of gas from said field at any price less than 9.8262 cents measured at the wellhead at a pressure base of 14.65 pounds absolute per square inch causes both physical and economic waste; that the taking of gas at the price now prevalent causes a less return to royalty owners and the State of Oklahoma, results in inequitable taking from the common source of supply and in discrimination against various producers in the field; that only a small portion of the gas produced in the field is actually sold at the wellhead; that much of the gas is gathered and liquid hydrocarbons extracted, the residue being sold at the conclusion of processing; that the value received by the processor for liquid hydrocarbons extracted does not exceed

the cost of gathering and processing the gas and represents a valuable service to the purchaser; that to realize a price equivalent to and not less than 9.8262 cents per thousand cubic feet at the wellhead such producer and processor must receive for such residue gas a price of not less than 9.8262 cents; that to prevent waste, to protect correlative rights, and insure the greatest ultimate recovery of gas from the common reservoir gas should not be permitted [fol. 722] to be taken from the structures of said field at a price less than 9.8262 cents; that a minimum price order cannot be made fully effective unless the manner in which producers of processed gas shall obtain such price is provided; and entered its order that no gas shall be produced from said field at a price less than 9.8262 cents per thousand cubic feet if sold at the wellhead or on the lease or drilling unit or a price equivalent to 9.8262 cents if sold off the lease or drilling unit or otherwise utilized; that the minimum price of gas sold at the conclusion of gathering but without extraction of hydrocarbons shall be 9.8262 cents plus the reasonable cost of gathering; and that processed or residue gas shall be sold at a price of not less than 9.8262 cents.

The contentions of various plaintiffs in error may be broadly grouped under three general propositions, each with several subheads and arguments which will be discussed in their proper place. These three propositions are: (1) that the order of the Commission is not predicated upon adequate findings and is not supported by the evidence; (2) that the order purports to regulate interstate commerce and imposes an unlawful embargo and restriction thereon; (3) the Commission has no power or author- [fol. 723] ity, express or implied, to fix the minimum price at which residue gas, only one of the constituents of raw gas, shall be sold.

Under the first general proposition plaintiffs in error allege that the findings of the Commission are inadequate as basic findings of fact to support the conclusions expressed in order as findings in that the Commission's finding as to the existence of physical waste is a final conclusion, not a basic fact finding; that the finding of physical waste is a final conclusion, not a basic fact finding; that the find-

ing of economic waste is not supported by the evidence; that the Commission cannot fix the price of commodity sold in interstate commerce merely to increase the profits of the sellers of such commodity; that the findings that under existing price there is loss to the royalty owners and the State do not justify the order; the order goes beyond the necessities of the case; the finding that the price now prevalent results in inequitable taking from the common source of supply is without support of adequate findings and evidence; the finding that the prevalent price results in discrimination against various producers is unsupported by findings of basic facts and the evidence; the finding [fol. 724] that the production of gas is in excess of market demand is without foundation in findings of basic facts or the evidence; a mere finding that the order is for the prevention of waste, the protection of correlative rights, and in the interest of the state is not sufficient basis for the exercise of jurisdiction; the order purports to fix the earnings of gatherers and processors of gas which is beyond the scope of the Commission's jurisdiction; the order is a special order; there is no substantial evidence to sustain the finding that the minimum price for residue gas should be identical with the wellhead price for raw natural gas.

A review of the evidence outlined above demonstrates that none of these contentions are well founded. There is substantial evidence to the effect that the prevalent price of raw gas in this field (seven cents per thousand cubic feet as fixed by previous order) will not, under present economic conditions prevailing, such as cost of labor and materials, permit the drilling of wells in fringe areas, resulting in non-development of the field, migration of gas to wells in production to the loss of landowners in fringe areas, and incomplete exhaustion of the gas-bearing structures, all to the loss of landowners, producers, and the [fol. 725] State of Oklahoma generally. Such facts constitute both physical and economic waste and amply justify the Commission's order on that factor. Certainly such facts clearly show inequitable taking from the common source of supply, irreparable harm to correlative rights of owners, loss to royalty owners, and loss to the State and are sufficient to sustain the interest of the state in correct-

ing such abuses. This is a regulatory order based upon the interest of the State in conserving its natural resources; it is not an order designed merely to increase the earning of producers and processors. Such an order is a proper exercise of the State's police power. Cities Service Gas Co. v. Peerless Oil & Gas Co., 263 Okla. 35, 220 P. 2d 279, affirmed 340 U. S. 179, 71 S. Ct. 215, 95 L. ed. 190. That it may have such effect is a mere incident.

The evidence that the value of the liquid hydrocarbons extracted just about balances the cost of gathering and processing the raw gas is uncontradicted. Certainly such processing constitutes a valuable service to the purchaser. The contracts introduced in evidence are very precise as to exactly what constituents shall remain in the residue gas contracted for. To have any regulation at all, to insure [fol. 726] that all gas produced from the structures in this field shall be sold at the same minimum price it was necessary to fix the price of residue gas and the evidence is substantial to show that such price must be the same as that of raw gas to attain this end. See Phillips Petroleum Co. v. Oklahoma, 340 U. S. 190, 71 S. Ct. 221, 95 L. ed. 204.

The findings of the Commission are supported by basic facts and the order of the Commission is based on substantial evidence.

Under the second and third broad groups of contentions plaintiffs in error claim that the order fixing the price of residue gas places a burden upon interstate commerce; that such residue gas is dedicated and destained for interstate movement even before the production of the natural gas of which such residue gas is a constitutent; that there is a steady, uninterrupted flow from the wells to the gathering system through the processing plant into the pipeline systems and ending at markets in states outside Oklahoma; that such order was not made in any economic interest but for the interest of those producers who also process gas before delivery, and thus imposes an embargo and unlawful regulation on interstate commerce, is arbitrary and [fol. 727] discriminatory; the order constitutes an unwarranted and unnecessary invasion of property rights under the guise of the exercise of the police power and deprives plaintiffs in error of their property without due process of

law; the order impairs the obligation of contracts, takes plaintiffs in error's property for private use; there is no local interest which outweighs the national interest in burdening gas sold interstate with state price-fixing regulations; the Commission seeks by this order to exercise extraterritorial jurisdiction; the price fixed for residue gas is not supported by substantial evidence.

The order of the Commission fixing a price of 7 cents per thousand cubic feet at the wellhead in the Guymon-Hugoton field was involved in the cases of Cities Service Gas Co. v. Peerless Oil & Gas Co., supra, Phillips Petroleum Co. v. Oklahoma, supra, and Natural Gas Pipeline Co. of America v. Panoma Corporation, et al., not yet officially reported, 24 Oklahoma Bar Journal 1393, —— P. 2d ——. The same field and the same parties as here were involved and the same arguments were made and the same authorities cited in support thereof as here. These cases are decisive of the point that the Commission under its regulatory power for conservation purposes has the power to fix a minimum price [fol. 728] as a condition precedent to the taking of natural gas from the structures; that such minimum price does not place an embargo or unlawful restriction upon interstate commerce, unlawfully impair the obligations of contracts, or violate due process. And as said in the Phillips Petroleum Company case, supra, by the United States Supreme Court, the Commission may order a producer such as Phillips who does not sell raw gas at the welihead to obtain the equivalent of the fixed minimum price when the gas is sold after processing, because the Commission must be able to regulate the operations of all producers or there is little point in regulating any.

The only new question presented here is: may the Commission establish a method or formula by which it can be ascertained whether a producer who does not sell raw gas at the wellhead obtains the equivalent of the fixed minimum price of raw gas as taken from the structures? and if so and to implement the obtaining of such equivalent price can the Commission add to the cost of raw gas which is not processed before sale but is sold off the lease the reasonable cost of gathering, or in case the raw gas is processed for the removal of liquid hydrocarbons before actual

delivery to the purchaser, fix the price of the residue gas being only one constitutent of the raw gas, so delivered? [fol. 729] Applicants concede that under their contracts the residue gas which they purchase is dedicated to the fulfillment of such contracts even before the production of the natural gas of which such residue gas is a constitutent is produced and that such gas can be sold to no one else. This, of course, amounts to a sale of the residue gas in place; the sale is made before any movement of any kind starts and before anything in the nature of interstate commerce occurs, regardless of the acts required to be performed before the residue gas is separated from other constituents of the raw gas and regardless of the point of delivery to the purchaser. As said in Natural Gas Co. v. Panoma, supra, the processing of the raw gas amounts to a manufacturing operation and represents a valuable service to the purchaser. Under their contracts purchasers are able to buy a manufactured product for which they have a ready sale without necessitating large investment in processing equipment to make the raw product salable.

It seems self-evident and axiomatic that if the Commission has the power to regulate by fixing minimum prices it has the power to establish a formula and method by [fol. 730] which it may be ascertained and determined whether all producers in the field are obtaining such minimum price, as it is their inescapable duty to do. It is only necessary that a formula or method so established be reasonable and practically effective to carry out the purpose for which it is made. Under the evidence here it is clearly shown that the market for liquid hydrocarbons is a competitive and fluctuating one. It would seem highly impractical to attempt to fix a price for any one or all of such liquid hydrocarbons. It is also shown that by the very nature of natural gas its market is fixed and stable and amounts almost to a monopoly in a limited way; that because of the great expense and investment necessary for adequate distributing lines for moving the gas to the ultimate user a seller of residue gas must have a dedicated and guaranteed source of supply and franchise for more or less exclusive sale. Such requirements, of course, keep the sale

of residue natural gas as a fuel off a competitive market to a great extent.

The evidence shows that the average return over a long period from the sale of the liquid hydrocarbons extracted from the raw gas just about balances the cost of gathering [fol. 731] and processing; sometimes the sale amounts to more and quite often amounts to less. As a practical matter it seems that the only feasible method to carry out the purpose of the Commission in regulating the taking of natural gas from the structures by all producers, regardless of their particular mode of operation, would be to fix the price of the residue gas, which is the only fairly stable constitutent of raw gas.

All parties concede that under the cases above the Commission can fix the price of gas as taken from the structure. If it can fix the price of the whole it can fix the price of all the parts constituting the whole. If it is not practically feasible to fix the price of all the parts constituting the whole it can fix the price of that constitutent which can be controlled, provided it does it in a reasonable manner and so that the overall purpose is carried out. Under the evidence it seems that the Commission established the only formula which it could establish that would be workable and not be discriminatory or arbitrary. Under the formula established the producer who sells raw gas without processing off the lease obtains the minimum price at [fol. 732] the wellhead. The same thing is true as to residue gas. As it is shown that the liquid hydrocarbons counterbalance the cost of gathering and processing (which as above stated represents a valuable service to the purchaser) the only practical way to ensure that a producer who processes raw gas before actual delivery thereof to the purchaser will obtain the equivalent price of raw gas at the wellhead is to fix the price of residue gas as the same price of raw gas. As a practical matter this allows the purchaser of residue gas to receive a manufactured and processed product for which he has a sale at the same price, he would have to pay for the raw product. If, for example, a furniture dealer could obtain finished furniture for sale at the same price he could obtain unfinished lumber he

would think he had a rare bargain. The point of delivery of the finished product is a mere incident. The sale is made before anything in the nature of interstate commerce occurs. The order thus has no extraterritorial effect.

We think the Commission has the power to fix the price of residue gas as a necessary incident, under the facts shown in this record, to the regulation of the sale of raw gas as taken from the structures, and the formula and method established is both reasonable and practical. [fol. 733] The order of the Commission is based upon basic findings of fact and is supported by substantial evidence.

Affirmed.

Johnson, V. C. J., and Welch, Corn, and Arnold, JJ: concur. Williams, J., concurs by reason of stare decisis. Halley, C. J., and Davison, O'Neal, and Blackbird, JJ: Dissent.

[fol. 734] [File endorsement omitted]

Order correcting opinion

See Order Attached

Nos. 35,731, 35,732 and 35,734

(Considered as Consolidated)

Natural Gas Pipeline Company of America vs. the Corporation Commission of the State of Oklahoma, and Certain Mineral Owners in Texas County, Oklahoma, and Phillips Petroleum Company.

Dissenting Opinion—April 27, 1954

Blackbird, J: Dissenting:

I cannot agree with the views expressed in the majority opinion.

The price-fixing part of the Order involved herein is as follows:

> "It Is Therefore Ordered by the Corporation Commission of the State of Oklahoma as follows:
>
> 1. That no gas shall be produced from any well located in the Guymon-Hugoton Field of Oklahoma ex-

cept at a price of not less than 9.8262¢ per thousand cubic feet if sold at the wellhead or on the lease or drilling unit from which produced, *or a price equivalent to not less than 9.8262¢ per thousand cubic feet at the wellhead if sold off the lease or drilling unit or otherwise utilized. If the gas is sold during or upon conclusion of gathering without being processed for the extraction of liquid hydrocarbons, the price shall be not less than 9.8262¢ per thousand cubic feet plus the reasonable cost of gathering. If the gas is processed for extraction of liquid hydrocarbons and sold during or* [fol. 735] *at the conclusion of gathering the price for the residue gas shall be not less than 9.8262¢ per thousand cubic feet.*"

It will be seen from the above that the Order purports to fix the price of gas at three different stages, namely:

1. Raw gas at the well head;

(2) Raw gas "sold off the lease or drilling unit on otherwise utilized" including that sold at the conclusion of gathering and before processing, and

(3) Residue gas (the residue of raw gas *after* it has been processed).

As to (1) above, there can be no question as to the validity and constitutionality of the Order in view of the decision of this Court in Cities Service Gas Co. v. Peerless Oil & Gas Co., 203 Okla. 35, 220 P. 2d 279, and the decision of the United States Supreme Court on that case's appeal. See Cities Service Gas Co. v. Peerless Oil & Gas Co., 340 U. S. 179, 71 S. Ct. 215, 95 L. Ed. 190. However, as to (2) and (3) I think the Order is invalid and unconstitutional. [fol. 736] Each of the respondent companies is a "Natural Gas Company" as that term is defined in the Natural Gas Act, 52 Statutes 821, 15 U. S. C. A. Secs. 717, et seq. All are foreign corporations operating gas pipe line transportation systems traversing state lines and transporting residue gas derived by processing raw gas. Substantially all of this residue gas is transported through Respondents' interstate pipe lines and sold as fuel in various northern states. Such gas transportation is performed under au-

thority of certificates of public convenience and necessity issued to said Respondents by the Federal Power Commission and the selling of that gas in those states is likewise under the exclusive jurisdiction of that body. When the raw gasoline arrives at Phillips' two Texas plants for processing, it has already been commingled in Phillips' Texas-Oklahoma pipe line system with other raw gas produced in Texas. Michigan-Wisconsin's purchases from Phillips are made under a contract specifying a certain price therefor, entered into by and between said parties on December 11, 1945, with amendments later made.

[fol. 737] The Panhandle Company's pipe line system extends directly from producing areas in Oklahoma, Texas and Kansas to Missouri and other states north and east, where the gas it transports is sold at wholesale, both to utility companies for resale and to industries in those states for their own use. Part of this gas is derived from Panhandle's own wells in Oklahoma, and part is purchased from other producers.

All of the respondents maintain that Order No. 26096 is an unconstitutional assertion of power by the Corporation Commission in so far as it purports to fix the price of residue gas, and raw gas, after it has left the wellhead and lease or drilling unit where it is produced and enters an interstate pipe line system for resale in other states. Only Natural argues that the Order as a whole, including the part applicable to wellhead gas, is invalid or not justified by the evidence. As I consider the Order separable as applied to the gas in its three classifications above named, and, as I note that under the stipulated facts, Natural is not a purchaser of wellhead or raw gas, if Order No. 26096 has been reversed only as it purports to apply to gas other [fol. 738] than at the wellhead, Natural would then have no rights impinged, as the price it is paying Panoma for residue gas under its present contract presumably would not be directly affected or disturbed. In that situation, the questions Natural raises as to the wellhead gas price fixing feature of the Order would become merely abstract or hypothetical ones, and not subject to review on specifications of error by this party not shown to be then affected by it. See Patterson v. Stanolind Oil & Gas Co., 182 Okla.

155, 77 P. 2d 83; Emrick v. State Highway Commission, 147 Okla. 252, 296 P. 412; Swan v. Home Savings & State Bank, 148 Okla. 42, 297 P. 250; In re Stewart Bros., 53 Okla. 153, 155 P. 1124; 2 Am. Jur., "Appeal and Error", Sec. 152. I will therefore reserve opinion on that part of Natural's argument and consider now only its argument directed at the "non-wellhead" portions of the Order, together with those of the other protestants, which on those phases are substantially the same.

As the Order purports to fix the price of raw gas at the conclusion of its gathering beyond Oklahoma's territorial limits, or after it has gotten into an interstate pipe line, and purport to fix the price of residue gas, respondents say:

> [fol. 739] (1) The findings and Order of the Commission are not supported by substantial, competent evidence;
>
> (2) The Order is beyond the constitutional and statutory power of the Commission and, as applied to protestants, violates,
>
> (a) Sections 7, 15, 23, and 24 of Article II of the Oklahoma Constitution, and Section 10, Article I, and the Fourteenth Amendment of the U. S. Constitution by taking their property and valuable property rights without due process of law, without just compensation, and without a justifying public purpose or reciprocity of advantage, and denies them equal protection of the law.
>
> (b) and violates section 8, Article I of the U. S. Constitution by placing an unlawful embargo on interstate commerce."

In so far as Order No. 26096 purports to apply to the gas after it is received into interstate pipe lines and is sold for immediate transportation and resale in other states, I think its invalidity is settled by State of Wisconsin v. Federal Power Commission (U. S. Ct. App. D. C.) 205 Fed. 2d 706. The opinion promulgated therein demonstrates, with the ample support of the previous U. S. Supreme Court decisions cited therein, that gas sales, in no respect (affecting their interstate character) different from those in the present case, are interstate commerce, and

cannot be regulated by any state; and that the exemption of "production or gathering of gas" contained in the Nat- [fol. 740] ural Gas Act, supra, does not extend to sales made after production and gathering have been completed. There is no direct conflict between this decision and previous decisions of our own Court. There is little if any, disagreement among the litigants herein as to the principles of constitutional law that apply. The only conflict or joinder of issues in their argument seems to center around their divergent interpretations of Order No. 26096. Thus they agree that under the weight of authority, including Cities Service Oil & Gas Co. v. Peerless Oil and Gas Co., supra, extension of the state's police power to price-fixing can be constitutionally justified only on the basis of a public purpose or protection of the public interest, such as gas conservation. But proponents of the Order seek to interpret and justify it as a conservation measure. Therefore, let us analyze the present order as tested by the principles laid down by our Court in the Cities Service Case. The material ones, as expressed in the syllabus of our opinion, are as follows:

> [fol. 741] "1. The grant of power to the Corporation Commission under 52 O. S. 1941, § 239 to regulate the *taking of natural gas from a common source of supply* 'so as to prevent waste, protect the interest of the public, and of all those having a right to produce therefrom,' by necessary implication includes the power to employ such means as may be *reasonably necessary* to the accomplishment of the declared purposes and includes the power to fix a price consideration in the *taking* of gas when found necessary to the attainment of such ends.
>
> 2. The provisions of 52 O. S. 1941, § 233, give the Corporation Commission authority to fix the price at which natural gas may be *produced and taken from the field*, under the circumstances and in the manner therein stated.
>
> 3. Price control, like any other form of regulation, is unconstitutional only if arbitrary, discriminatory, or demonstrably irrelevant to the policy which the Legislature is free to adopt, and hence an *unnecessary*

and unwarranted interference with individual liberty. A price fixing order of the Corporation Commission made pursuant to statute is to be tested by the same standards.

* * * * * * *

5. The Commerce clause of the Federal Constitution does not preclude the state in the protection of local interests from fixing a uniform minimum price consideration *as a condition of the taking* of natural gas from a common reservoir because a producer therefrom will in the normal course of business sell and deliver gas in interstate commerce. The regulation is imposed *before* the operation of interstate commerce occurs." (Emphasis added.)

[fol. 742] As shown in the above quotation, our upholding of the gas price-fixing Order involved in that case, was based, at least in part, upon the following considerations:

(1) That the Order was a *reasonably necessary* means to the accomplishment of the declared purpose of the Corporation Commission's statutory grant of power to prevent waste and protect correlative rights in a common source of gas supply;

(2) That price control is unconstitutional only when it is an *unnecessary and unwarranted* interference with individual liberty;

(3) That such an order does not violate the Commerce Clause of the Federal Constitution when it fixes a uniform minimum price as a condition of *taking the gas from a common reservoir* and takes effect *before* the gas gets into interstate commerce.

When weighed in the light of the above tests, we think the order in question must be found wanting. After examining the provisions of the Order purporting to fix the price of residue and raw gas away from the well or field or at the conclusion of its gathering, and weighing their effect and operation, as applied to the situation here and the rights of all concerned, we do not see how they can be justified as a

conservation measure. In the 14th paragraph of its findings, the Commission found:

> [fol 743] "That a minimum price order cannot be made fully effective and discrimination prevented without a means provided for determining the manner in which the amount realized for gas by producers operating gathering and processing plants."

This is obviously an incomplete sentence and finding, but if it was intended to say by it that fixing a price for residue gas and raw gas away from the wells or field is reasonably necessary to the effective and indiscriminate operation of the order, we do not agree. It was not shown that any of the wells in the Guymon-Hugoton Field are without gauges at their wellheads or that it is necessary to fix the price at any other point in order to accomplish the only legally justifiable purposes of such an order. There is no substantial evidence in this case to detract from the conclusion that the purposes of conservation are served when the taking from the gas sand is regulated at the wellhead by fixing the price right there—and before it gets into interstate pipe lines and is commingled with gas from other states, as was shown to occur before some of it arrives at Phillips' plants in Texas. Of course, Phillips' evidence was calculated to show that it and other gatherers and processors similarly situated had a problem of determining [fol. 744] whether or not they were receiving for residue gas the equivalent of the Commission-fixed price for raw gas at the wellhead. This same problem is said to have been presented to the United States Supreme Court in Phillips Petroleum Co. v. Oklahoma, 340 U. S. 190, 71 S. Ct. 221, 95 L. Ed. 204, as evidenced by the following excerpt from the Court's opinion:

> "Phillips also relies heavily on the contention that the orders are unreasonably vague. In substance, this argument is nothing more than that the determination by an integrated company of proceeds realized from gas at the wellhead involves complicated problems in cost accounting. These problems are common to a host of valid regulations. There is nothing to indi-

cate that Phillips will be penalized for reasonable and good faith efforts to solve them."

In both of the above cases the Cities Service Co. Case, supra, it was demonstrated that an order fixing a wellhead price applies to all and discriminates against none. While this may not be the only way to prevent waste and preserve correlative rights by price-fixing, it appears to be the best plan that has come before this court. Contrary to the impression the majority opinion seems to leave, the Case, [fol. 745] supra, furnishes it no support. While it is true that the Court therein recognized that the Commission must be able to fix the price for all *producers* or there is no point in trying to fix the price for any, it rejected Phillips' claim that a wellhead price could not be uniformly and indiscriminately enforced. And it must be borne in mind that the Orders there involved attempted no more than to fix the price of raw gas at the wellhead, as distinguished from a residue or by-product processed *in another state and there* sold in interstate commerce. It was specifically stated in that opinion: "Appellant does not argue that the orders violate the Commerce Clause, art. 1, § 8, cl. 3."

The price fixed in the objectionable portions of the order here presented would not operate indiscriminately. True, the order might readily solve Phillips' accounting problems. If completely effective, it might even furnish Phillips legal justification and exoneration for not living up to its contracts for the sale of residue gas made in prior years and specifying prices which now may seem unfavorable to it, yet it would discriminate against those who do not have the pipe line annd processing facilities Phillips *possesses*. [fol. 746] Granted that resdue gas, or raw gas with gasoline and hydrocarbons removed, is more valuable for fuel purposes and to fuel consumers and distributors than the gas as it comes from the well in its natural state and that such gas should command a better price from such purchasers (being processed and ready for their use) these facts are immaterial, or at least of minor or secondary importance, to the primary question; it is necessary for the Commission to guarantee to a processor its cost of gather-

ing, or in the instance of residue gas, that cost, plus the cost of processing, in order to accomplish conservation of the State's natural gas resources? If so, this was not established by the evidence despite the statement to the contrary contained in the majority opinion. No attempt was made to show that gas from the Guymon-Hugoton Field would not have a market or that economic or physical waste of such resources would result if gatherers of gas in the field were not thus guaranteed their cost of gathering over and above the wellhead price. In this connection, I challenge any and all to show me proof in the present record that Phillips is actually losing money on its operations, or (as said in the majority opinion) "that if Phillips does not obtain" the price fixed by the order in question [fol. 747] "for residue gas but is forced to sell it at the price called for by its contracts with Panhandle and Michigan-Wisconsin such a loss would result that Phillips would be forced to close down its producing, gathering and processing operations; . . .". As hereinbefore noted, Phillips attempted to show by its interdepartmental system of cost accounting, and the Commission found, that the "value" of the liquid hydrocarbons extracted from the raw gas does not exceed the cost of processing and gathering it, "including a reasonable allowance for depreciation and return on investment. . . .". But I say that even if, on the basis of applicable law and substantial evidence, such a guaranteed profit to such processors might conceivably be justified as a conservation measure, it is discriminatory, and the discrimination is in favor of those situated as is Phillips. By guaranteeing such companies the same minimum price for residue gas as raw or wellhead gas, the order gives them either; *one* highly marketable product (residue gas) free of cost for gathering and processing (if such cost is charged to its processing or refining department), or *more* marketable products free of such costs, such as gasoline, carbon black and other hydrocarbons (if the gathering and processing is charged against the residue gas as a part of the cost of marketing it). Other [fol. 748] purchasers buying gas at the wellhead would not have the advantage of this "two-way guarantee," but

after purchasing the gas there, are "on their own" as regards paying their costs of gathering and marketing it. Another and second discrimination which is more patent on the face of the Order is that it purports to require the producer or lessee who sells gas after it is "gathered", but before it is processed, to obtain for it, in addition to the wellhead (and residue price) of 9.8262 cents per thousand, an extra added premium which the Order calls: "the reasonable cost of gathering." Aside from the controversies such an order will engender over the question of when or at what point gas can be said to be "gathered" within the meaning of that term as used in the order, this provision discriminates in favor of those owners of mineral rights who derive their producing royalty income from lessees or producers who sell gas at the conclusion of gathering, and against those who derive their income from producers in the other two catagories, that is, (1) Those who sell nothing but raw gas at the wellhead, and (2) those who make no sale of gas until after it is processed and becomes residue gas. The majority opinion reflects that there is some wastage and shrinkage between the wellhead and the gauges at the processing plants. How will the *the* [fol. 749] royalty owners under lesses owned by Phillips get paid for as many cubic feet of gas as the royalty owner under leases producing gas that is sold at the wellhead? Will these royalty owners get paid on the basis of the number of cubic feet of raw gas that pass through the gauges at the wellhead, or will they be paid on the basis of the number of feet of residue gas that pass through the gauges at the processing plant? To me, the above considerations not only demonstrate that the order in question is discriminatory in more than one respect, but also, that by it, the Commission is about to launch an unlawful and dangerous invasion of the field of private enterprise, or "individual liberty" (as expressed in the Cities Service Case, supra) without the justification of necessity for conservation purposes. If this body's fixing of the price of residue gas can be justified on the grounds of conservation, as different a product and as far removed as it is from the natural gas that is the resource to be conserved, then I see

no reason why that Body cannot also fix the price of gasoline, carbon black, and other products or commodities refined and/or manufactured from natural gas.

[fols. 750-753] The record reveals that before the last of the protracted series of hearings in this case the Commission, through its Chairman and its attorney, expressed grave doubt, or at least serious misgivings, as to whether a price-fixing order for anything but raw gas at the wellhead could be legally or constitutionally justified as a conservation measure. This makes it doubly surprising and somewhat imponderable to find that after delaying its decision several days after the last hearing, the Commission, on the basis of the weak and biased evidence presented by no other company than Phillips, signed substantially the same kind and form of order that Phillips' attorneys had previously drawn and exhibited to the Commission earlier in the hearings.

On the basis of the foregoing views, it is my conclusion that Order No. 26096 is valid in so far as it sets a price for natural gas at the wellhead, but is invalid in its other price-fixing aspects. Accordingly, I think the Order should have been affirmed in part and reversed in part. To that extent, and for the foregoing reasons, I dissent to the opinion of the majority.

* * * * * * *

[fol. 754] In the Supreme Court of the State of Oklahoma

No. 35,731

Natural Gas Pipeline Company of America, Plaintiff in Error,

v.

The Corporation Commission of the State of Oklahoma, et al., Defendants in Error.

No. 35,732

Michigan-Wisconsin Pipe Line Company, Plaintiff in Error,

v.

The Corporation Commission of the State of Oklahoma, et al., Defendants in Error.

No. 35,734

Panhandle Eastern Pipe Line Company, Plaintiff in Error,

v.

The Corporation Commission of the State of Oklahoma, et al., Defendants in Error.

Petition for Rehearing—Filed May 11, 1954

[fol. 755] Natural Gas Pipeline Company of America, plaintiff in error in Cause No. 35,731 (hereinafter called Natural), Michigan-Wisconsin Pipe Line Company, plaintiff in error in cause No. 35,732 (hereinafter called Michigan-Wisconsin) and Panhandle Eastern and Panhandle Eastern Pipe Line Company, plaintiff in error in Cause No. 35734 (hereinafter called Panhandle), show to the court that on April 27, 1954, there was filed in said causes an opinion and judgment affirming an order of the Corporation Commission of the State of Oklahoma. By such opinion and judgment, this Court has held that Natural must pay Panoma Corporation (herein referred to as Panoma) and that Michigan-Wisconsin and Panhandle, respectively, must pay Phillips Petroleum Company, (herein referred to as Phillips) the price set forth in the Com-

mission order (rather than the price set forth in the gas purchase contracts between Panoma and Natural, between Phillips and Michigan-Wisconsin and between Phillips and Panhandle, respectively) for purchased residue gas.

[fol. 756] Basic in the court's opinion is the Court's interpretation of the contract between Panoma and Natural, the contract between Phillips and Michigan-Wisconsin, and the contract between Phillips and Panhandle. The Court has interpreted each of such contracts as reflecting, by force of the dedication provisions therein, a sale of the residue gas constituent of the raw natural gas "in place",—while still in the bowels of the earth.

The interpretation is in conflict with the interpretation which has been given each of those contracts by other courts and commissions. It is in conflict with former interpretations given to the contract between Phillips and Panhandle and to the contract between Panoma and Natural by this court. The interpretation which the Court now gives to these contracts is not the interpretation given them by the Corporation Commission. Furthermore, it is contrary to the express stipulations in the record. Plaintiffs in error have not, therefore had an opportunity to discuss such interpretation in any of their briefs filed herein.

[fol. 757] If the interpretation placed upon the contracts by the Court be assumed to be correct, such interpretation completely removes plaintiffs in error as owners of the residue gas from the operation of the order. If, however, that interpretation is wrong and the sales of residue gas to plaintiffs in error are made at the outlets of gasoline plants, they are sales in interstate commerce and, therefore, are immune from regulation by the state.

These plaintiffs in error respectfully show that a rehearing should be granted; that the opinion and judgments heretofore filed should be set aside and the order of the Commission should be vacated insofar as the operation of plaintiffs in error are concerned for the following reasons:

I

The basic holding in the Court's opinion that the gas purchased contracts here involved, by virtue of the dedi-

cation provisions therein, constitute sales of residue gas in place is erroneous. It is in direct conflict with

(a) The express stipulations of the parties;
(b) The order of the Commission;
(c) The interpretation placed on these and similar contracts by this and other courts and commissions;

and reflects an interpretation not sponsored before the Commission by any of the parties to these proceedings.

[fol. 758] II

If as held by the Court the gas purchase contracts constitute, by virtue of the dedication provisions therein, sales to plaintiffs in error of the residue gas in place, the affirmance of the order is palpably wrong for the following reasons:

(a) Order No. 26096 can have no application to plaintiffs in error since it purports to fix a price only where there are sales (1) of raw gas at the well-head, (2) of raw gas during or at the conclusion of gathering but before processing and (3) of residue gas after gathering and processing.

(b) If the residue gas belongs to plaintiffs in error in place, Order No. 26096 would, if valid, apply only to the price they get for such gas at their points of sale and not what they may have paid for it in the ground. No one contends that plaintiffs in error do not get a price equivalent to that fixed by the Commission.

III

Neither Cities Service Gas Co. v. Peerless Oil & Gas Co., Phillips Petroleum Co. v. Oklahoma, nor Natural Gas Pipeline Co. of America v. Panoma Corporation is stare decisis as to any issue involved in this appeal.

[fol. 759] IV

When the contracts referred to are properly interpreted as reflecting sales of residue gas at the outlets of gasoline plants, the order is, as to such sales, violative of the Commerce Clause of the Constitution of the United States in

that the sales are made for immediate transportation in interstate commerce, and the gas purchased is immediately so transported.

V

Whether the contracts reflect sales of residue gas in place in the formation or at the outlets of gasoline plants, and whether the dedications and sales be made in commerce and a part thereof, or constitute local activities closely related to and affecting interstate commerce, the order is invalid as applied to plaintiffs in error since the order is "furtively directed" at interstate commerce.

VI

The order is not supported by the state's conservation powers because:

(a) There is no substantial evidence showing that in the absence of the order there will be any substantial waste of gas or violation of correlative rights. [fols. 760-763] (b) There is no evidence showing that in the interest of conservation it is necessary to guarantee to a processor of gas a profit on his operations in gathering and processing gas.

VII

As applied to purchases made by Panhandle Eastern Pipe Line Company and Michigan-Wisconsin Pipe Line Company from Phillips, the Commission's order is violative of the Commerce Clause of the Constitution of the United States and the Due Process Clause of the Fourteenth Amendment thereto in that it is an attempt to exercise jurisdiction over the sale of a commodity in another state.

* * * * * * *

[fol. 764] [File endorsement omitted]

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 35,731

NATURAL GAS PIPELINE COMPANY OF AMERICA, Plaintiff in Error,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al., Defendants in Error.

No. 35,732

MICHIGAN-WISCONSIN PIPE LINE COMPANY, Plaintiff in Error,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al., Defendants in Error.

[fol. 765] AMENDED PETITION FOR REHEARING—Leave is hereby granted to file this 2 day of July, 1954, Harry L. S. Halley, Chief Justice.

Natural Gas Pipeline Company of America, plaintiff in error in cause No. 35,731, and Michigan-Wisconsin Pipe Line Company, plaintiff in error in cause No. 35,732, for their Amended Petition for Rehearing say that the opinion and judgment heretofore filed in said causes (consolidated) and the order of the Corporation Commission of the State of Oklahoma affirmed thereby should be vacated in so far as the operations of said plaintiffs in error are concerned for the following reasons:

1. All those reasons set forth in the petition for Rehearing heretofore filed by said plaintiffs in error, which said reasons are hereby adopted and made a part of this Amended Petition for Rehearing the same as though fully set out herein.

2. Sole and exclusive jurisdiction to fix the prices at which gas is sold to plaintiffs in error under their contracts

with Phillips and Panoma is vested by the Natural Gas Act (15 U. S. C. Sec. 717, et seq.) in the Federal Power Com- [fols. 766-767] mission. This was the holding of the Supreme Court of the United States in Phillips Petroleum Company v. State of Wisconsin, decided June 7, 1954, 22 Law Week 4281, in which the same contract between Michigan-Wisconsin and Phillips here involved was before the Supreme Court. Natural's contract with Panoma is in all material respects identical with that between Phillips and Michigan-Wisconsin, and therefore as applied to the sales to plaintiffs in error, Order No. 96 constitutes an unlawful attempt by the Corporation Commission of the State of Oklahoma to exercise jurisdiction over a subject matter which Congress has delegated exclusively to a Federal regulatory body.

Respectfully submitted, Natural Gas Pipeline Company of America, By Coleman Hayes, One of its attorneys, Michigan-Wisconsin Pipe Line Company, By Coleman Hayes, One of its attorneys.

[fol. 768] [File endorsement omitted]

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 35,731

NATURAL GAS PIPELINE COMPANY OF AMERICA, Plaintiff in Error,

vs.

THE CORPORATION COMMISSION OF OKLAHOMA, et al., Defendants in Error

No. 35,732

MICHIGAN-WISCONSIN PIPE LINE COMPANY, Plaintiff in Error,

vs.

THE CORPORATION COMMISSION OF OKLAHOMA, et al., Defendants in Error

No. 35,734

PANHANDLE EASTERN PIPE LINE COMPANY, a corporation, Plaintiff in Error,

vs.

THE CORPORATION COMMISSION OF OKLAHOMA, et al., Defendants in Error.

Consolidated

RESPONSE TO PETITION FOR REHEARING—Filed June 18, 1954 [fol. 769] The within is entered in response to a letter (letter of Coleman Hayes dated June 11, 1954), and a memorandum (memorandum filed by Panhandle Eastern Pipe Line Company in support of its petition for rehearing) both of which call the attention of this court to the recent decision of the Supreme Court of the United States in the "Phillips case" (Phillips Petroleum Company, Petitioner, vs. State of Wisconsin, et al., No. 280, State of Texas, et al., Petitioners vs. State of Wisconsin, et al., No. 281 and Federal Power Commission, Petitioner vs.

State of Wisconsin, Public Service Commission of Wisconsin, No. 418, opinion of June 7, 1954). Neither the letter nor the memorandum suggests reasons why the decision in the Phillips case should be considered controlling. Let us reason briefly.

In the Phillips case, the Supreme Court of the United States reaffirmed the authority of the States, in the process of preventing waste, to prescribe "minimum price orders." It also holds that the Federal Power Commission, for the "protection of consumers against exploitation", has the right to regulate by prescribing a *maximum* price for the [fol. 770] sale of gas. The state's regulation thus constitutes a floor price, and, if issued, a regulation or order of the Federal Power Commission would constitute a ceiling price. As long as there is air space between the floor and the ceiling, there is no conflict.

A regulation or order of the Federal Power Commission can be reviewed in the courts if arbitrary and unreasonable. Presumably it would be unreasonable for the Federal Power Commission to fix a maximum price for the sale of gas at a level which would cause waste of this resource. It is inconceivable that waste would be in the best interest of the consuming public. It may, therefore, be anticipated that there will never be a conflict in the state's regulations preventing waste and a regulation of the Federal Power Commission entered for the protection of the consuming public.

For such a conflict to develop, two things must transpire, first the Federal Power Commission must regulate, and second, such regulation must be antagonistic to a waste [fol. 771] prevention order of a state regulatory body. If such time comes, and it may never, then the conflict ought to be resolved by the Supreme Court of the United States, which court has now approved both types of regulation. No state court ought to anticipate that in such event the Federal courts will elect to approve a Federal Power Commission regulation causing waste. To anticipate a conflict and the resolution thereof in favor of a yet unissued Federal Power Commission order would amount to a present abdication of a state power which ought to be protected.

It ought to be left to the Federal Courts to assert the superiority of the Federal Power.

Since there is presently no conflict, the only remaining contention which can be asserted by the plaintiffs in error is that the Commission's price orders directly affect interstate commerce. Of course they do. Every adjustment in the field price of gas has an impact on gas moving in interstate commerce. But the Supreme Court of the United States has already said that a waste prevention order has [fol. 772] no unreasonable effect upon interstate commerce and, therefore, is not prohibited by the Federal constitution. We think this court might again focus its attention on the following language from the opinion of the Supreme Court in the Cities Service case, Cities Service Gas Company vs. Peerless Oil and Gas Company, et al., 71 S. Ct. 215:

> "The Commerce Clause gives to the Congress a power over interstate commerce which is both paramount and broad in scope. But due regard for state legislative functions has long required that this power be treated as not exclusive. Cooley vs. Board of Wardens of Port of Philadelphia, 1851 12 How. 229, 13 L. Ed. 996. It is now well settled that a state may regulate matters of local concern over which federal authority has not been exercised, even though the regulation has some impact on interstate commerce. Parker v. Brown, 1943, 317 U. S. 341, 63 S. Ct. 307, 87 L. Ed. 315; Milk Control Board of Pennsylvania v. Eisenberg Farm Products, 1939, 306 U. S. 346, 59 S. Ct. 528, 83 L. Ed. 752; South Carolina State Highway Dept. v. Barnwell Bros., 1938, 303 U. S. 177, 58 S. Ct. 510, 82 L. Ed. 734. The only requirements consistently recognized have been that the regulation not discriminate against or place an embargo on interstate com- [fols. 773-775] merce, that it safeguard an obvious state interest, and that the local interest at stake outweigh whatever national interest there might be in the prevention of state restrictions. Nor should we lightly translate the quiescence of interest lies in complete freedom from regulation. South Carolina State Highway Dept. vs. Barnwell Bros., supra. Com-

pare Leisy v. Hardin, 1890, 135 U. S. 100, 10 S. Ct. 681, 34 L. Ed. 128, decided prior to the Wilson Act, 26 Stat. 313, 27 U. S. C. A., Sec. 121, with In re Rahrer, 1891, 140 U. S. 545, 11 S. Ct. 865, 31 L. Ed. 572, decided thereafter."

A minimum price order accomplishing waste prevention is constitutional. It is within the boundaries of the right to regulate reserved to the states. The boundaries of the Federal Power Commission's right to regulate encompass only prices inimical to the interest of the consumer. The Supreme Court of the United States has said that a State's regulation within the boundaries of its power to regulate is not prohibited by the Federal constitution. Presumably the prohibition of the Commerce Clause will only apply to regulations bringing on "exploitation" price.

Respectfully submitted, Floyd Green, Conservation Attorney, Corporation Commission of Oklahoma, T. Murray Robinson, Attorney for Texas County Land and Royalty Association.

[fol. 776] [File endorsement omitted]

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

ORDERS DENYING PETITION FOR REHEARING—July 13, 1954

The clerk is hereby directed to enter the following orders:

35,731—Natural Gas Pipeline Co. of America v. Corporation Comm., et al.

35,732—Michigan-Wisconsin Pipe Line Co. v. Corporation Comm., et al.

35,734—Panhandle Eastern Pipeline Co. v. Corporation Comm., et al.

Petition for rehearing and motion for oral argument denied.

N. B. Johnson, Acting Chief Justice

[fol. 777] [File endorsement omitted]

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

No. 35,732

MICHIGAN-WISCONSIN PIPE LINE COMPANY, Appellant,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al., Appellees.

No. 35,731

NATURAL GAS PIPELINE COMPANY OF AMERICA, Appellant,

v.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al., Appellees.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed Aug. 7, 1954

I

Notice is hereby given that Michigan-Wisconsin Pipe Line Company, appellant in the above Cause No. 35,732, and Natural Gas Pipeline Company of America, appellant in the above Cause No. 35,731, hereby appeal to the Supreme Court of the United States from the final judgment of the Supreme Court of the State of Oklahoma, affirming an order of the Corporation Commission of the State of Oklahoma, which affirmance was entered in the foregoing actions on April 27, 1954.

This appeal is taken pursuant to 28 U .S. C. 1257(2).

[fol. 778] II

The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and include in the transcript the following:

1. Petition in Error filed by Michigan-Wisconsin Pipe Line Company in Cause No. 35,732.

2. Petition in Error filed by Natural Gas Pipeline Company of America in Cause No. 35,731.

3. Petition in Error filed by Panhandle Eastern Pipe Line Company in Cause No. 35,734.

4. Transcript of proceedings (including Exhibits) before the Corporation Commission of the State of Oklahoma in Cause No. CD 3628.

5. Supplemental Brief filed by Michigan-Wisconsin Pipe Line Company and Natural Gas Pipeline Company of America in Causes No. 35,732 and No. 35,731 in December 1953.

6. Supplemental Brief filed by Phillips Petroleum Company in Causes No. 35,732, No. 35,731 and No. 35,734 in February 1954.

7. Response of Plaintiffs in Error in Causes No. 35,731 and No. 35,732 filed in March 1954.

8. Majority and Minority Opinions of the Supreme Court of Oklahoma in Causes No. 35,731, No. 35,732 and No. 35,734.

9. Petition for Rehearing filed in Causes No. 35,731, No. 35,732 and No. 35,734.

[fol. 779] 10. Memorandum supplementing Motion for Rehearing filed by Panhandle Eastern Pipe Line Company in Cause No. 35,734.

11. Amended Petition for Rehearing filed by Natural Gas Pipeline Company of America and Michigan-Wisconsin Pipe Line Company in Causes No. 35,731 and No. 35,732.

12. Response to items 10 and 11 filed by Defendants in Error, certain mineral owners and the Commission.

13. Order overruling Motion for Rehearing in Causes No. 35,731, No. 35,732 and No. 35,734.

14. This Notice of Appeal by Michigan-Wisconsin Pipe Line Company and Natural Gas Pipeline Company of America.

15. Notice of Appeal filed by Panhandle Eastern Pipe Line Company in Cause No. 35,734.

III

The following questions are presented by this appeal:

1. Whether the Corporation Commission of Oklahoma has the power, consistently with the Commerce Clause of

the Constitution of the United States (Art. I, Sec. 8, Cl. 3) and the Natural Gas Act (15 U. S. C. 717, et seq.), to fix the price of residue gas sold at the outlet of a gasoline plant to an interstate pipeline company for immediate transportation to markets in other states, or to prohibit the production of natural gas if the price fixed for residue gas obtained therefrom is not obtained.

2. Whether, as applied to Michigan-Wisconsin, the Commission's order fixing the price of residue gas sold in Texas is an attempt to exercise extraterritorial jurisdiction and [fol. 780] violative of the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

3. Whether, as applied to appellants, the Commission's order is arbitrary and unreasonable and abrogates private contracts for no public purpose, contrary to the Due Process Clause of the Fourteenth Amendment and the Contract Clause (Art. I, Sec. 10) of the Constitution of the United States.

Jack T. Conn, D. H. Culton, Coleman Hayes, Arthur R. Seder, Jr., Attorneys for Michigan-Wisconsin Pipe Line Company, Appellant in Cause No. 35,732.

Clarence H. Ross, Charles C. McDugald, Warren T. Spies, D. H. Culton, Coleman Hayes, Attorneys for Natural Gas Pipeline Company of America, Appellant in Cause No. 35,731.

[fols. 781-789] I hereby certify that on August 4, 1954, I served a copy of the Foregoing Notice of Appeal to the Supreme Court of the United States on the following:

Murray Robinson, as attorney for appellee "Mineral Owners", Hightower Building, Oklahoma City, Oklahoma, Floyd Green, as attorney for appellee, The Corporation Commission of Oklahoma, care of Corporation Commission of Oklahoma, Oklahoma City, Oklahoma, R. M. Williams, as attorney for appellee, Phillips Petroleum Company, care of Phillips Petroleum Company, Bartlesville, Oklahoma,

William I. Robinson, as attorney for Panhandle Eastern Pipe Line Company, Wichita 2, Kansas, William I. Robinson, as attorney for Northern Natural Gas Company, Wichita 2, Kansas, Joe Rolston, Jr., as attorney for Cities Service Gas Company, Oklahoma City, Oklahoma,
by mailing to each, air mail postage prepaid, a copy thereof.

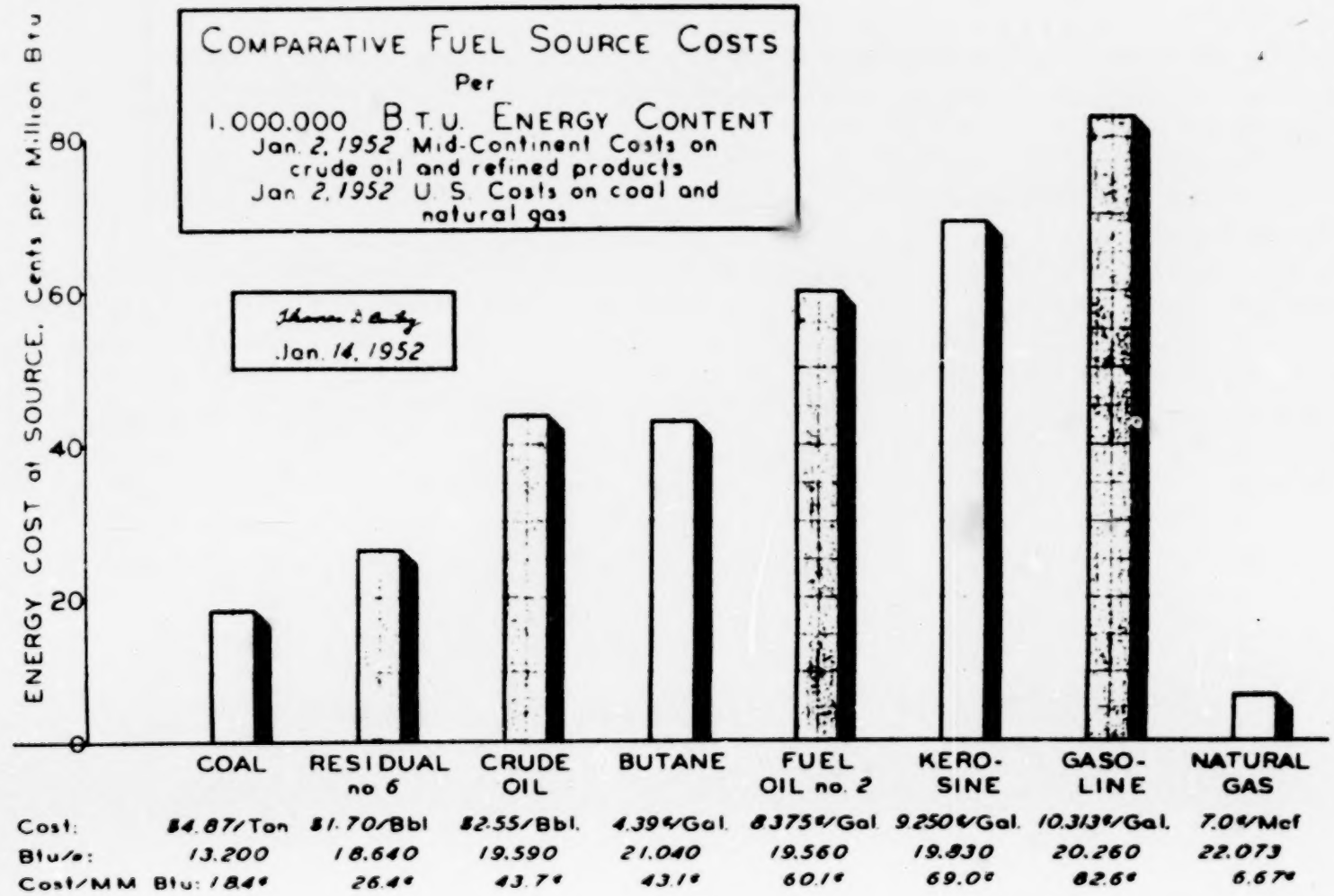
D. H. Cultion, Attorney for appellants, Michigan-Wisconsin Pipe Line Company, Natural Gas Pipeline Company of America.

Fig No 1

789a

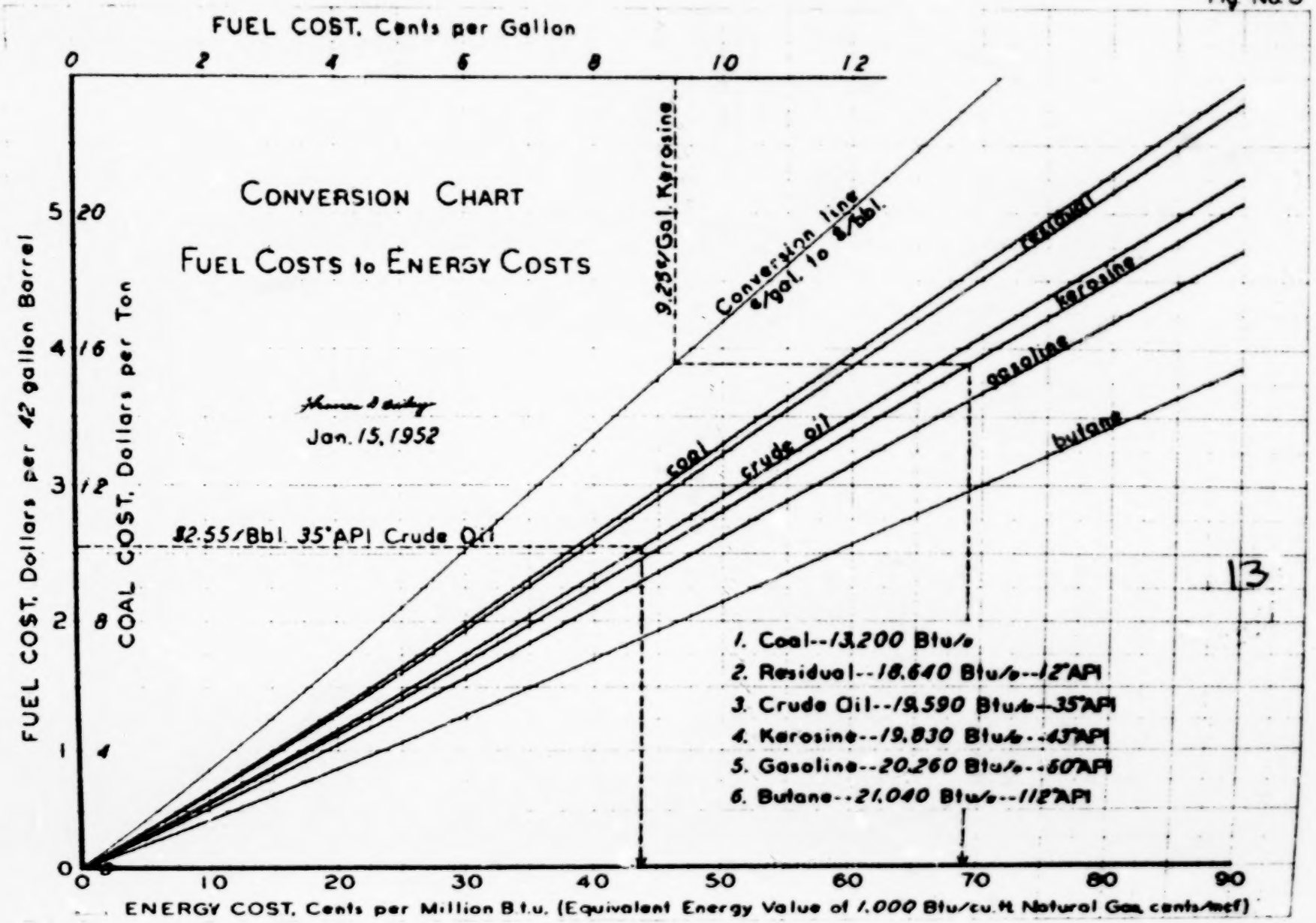
EXHIBITS 11-21, INCLUSIVE

11



COMPARATIVE FUEL SOURCE
ENERGY COST CURVES
Mid-Continent Costs
on crude oil and refined products
U.S. Costs on coal and gas
Jan. 18, 1952
ENERGY COST at SOURCE, Cents per Million B.t.u.
80
60
40
20
gasoline
kerosine
fuel oil no. 2
residual no. 6
crude oil
coal
natural gas
'39
'40
'41
'42
'43
'44
'45
'46
'47
'48
'49
'50
'51
'52
YEARS

Fig. No. 3

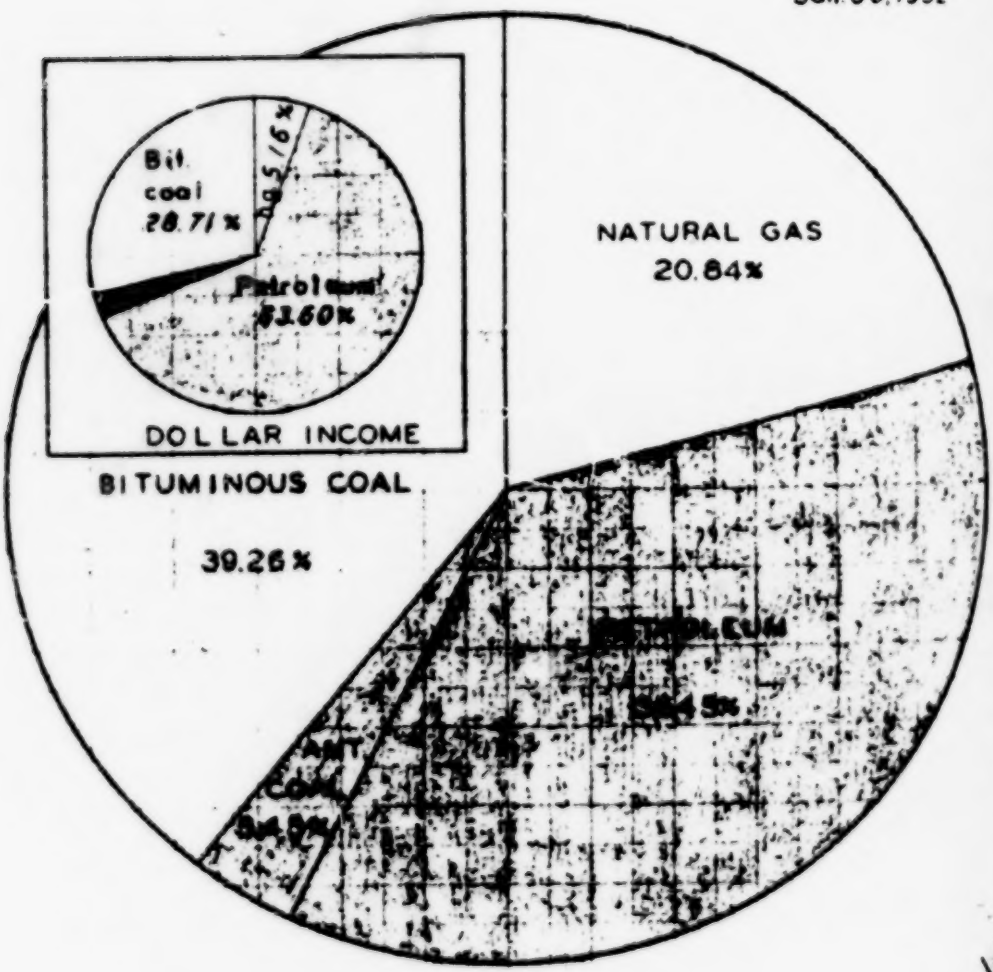

FUEL COST, Cents per Gallon
0
2
4
6
8
10
12
CONVERSION CHART
FUEL COSTS to ENERGY COSTS
Thomas J. Bailey
Jan. 15, 1952
9.25¢/Gal. Kerosine
Conversion line ¢/gal. to $/Bbl.
$2.55/Bbl. 35°API Crude Oil
FUEL COST, Dollars per 42 gallon Barrel
COAL COST, Dollars per Ton
5
20
4
16
3
12
2
8
1
4
0
residual
kerosine
gasoline
butane
coal
crude oil
13
1. Coal--13,200 Btu/#
2. Residual--18,640 Btu/#--12°API
3. Crude Oil--19,590 Btu/#--35°API
4. Kerosine--19,830 Btu/#--43°API
5. Gasoline--20,260 Btu/#--60°API
6. Butane--21,040 Btu/#--112°API
0
10
20
30
40
50
60
70
80
90
ENERGY COST, Cents per Million B.t.u. (Equivalent Energy Value of 1,000 Btu/cu.ft. Natural Gas, cents/mcf)

789c

Fig No.

Analysis of Energy Content and Source Cost of 1950 Mineral Fuel Production in the United States

Thomas D. Cady
Jan. 30, 1952



Energy Supplied

Fig No 4

B A S I C E N E R G Y E Q U I V A L E N T S

(Natural Gas, Crude Oil and Coal)

5.5546 Mcf (cost 38.882¢) = 1 Bbl. (cost $2.55)

1,000 Mcf (cost $70.00) = 180.11 Bbls. (cost $459.28)

25.1424 Mcf (cost $1.76) = 1 Ton (cost $4.87)

1,000 Mcf (cost $70.00) = 39.773 Tons (cost $193.70)

1 Ton (cost $4.87) = 4.528 Bbls. (cost $11.55)

Note: Based on specific gravities, B.t.u.-per-pound energy content, and source costs listed for natural gas, crude oil and coal in Table 1.

TABLE 1--COMPARATIVE FUEL SOURCE COSTS

(January 2, 1952 Mid-Continent Costs)

	Gravity	Btu/lb.	Btu/gal.	Source Costs	
				Unit	MM Btu
Natural Gas	0.625	22,073[1]		7.0¢/mcf[2]	6.67¢
Gasoline	60°	20,260[3]	124,800	10.313¢/gal.	82.6¢
Kerosine	43°	19,830[3]	134,100	9.250¢/gal.	69.0¢
Fuel Oil No. 2	34°	19,560[3]	139,400	8.375¢/gal.	60.1¢
Butane	112°	21,040[3]	101,940	4.39¢/gal.	43.1¢
Crude Oil	35°	19,590[3]	138,800	$2.55/bbl.	43.7¢
Residual No. 6	12°	18,640[3]	153,200	$1.70/bbl.	26.4¢
Coal		13,200		$4.87/ton[2]	18.4¢

1. Equivalent to 1,050 B.t.u. per cu. ft.--weight 47.57 lb./mcf.
2. Estimated United States average for January 1, 1952.
3. U. S. Dept. of Commerce Bureau of Standards Misc. Pub. 97.

TABLE 2--FUEL SOURCE COSTS AND RESULTANT 4M BTU CONTENT COSTS FOR THE YEARS 1939 TO 1951
MID-CONTINENT COSTS ON CRUDE OIL AND REFINED PRODUCTS
UNITED STATES AVERAGE COSTS ON COAL AND NATURAL GAS

Natural Gas | Gasoline | Kerosine | Fuel Oil #2 | Residual #6 | Crude Oil 35° API | Coal (Bit.)

TABLE 2--FUEL SOURCE COSTS AND RESULTANT ENERGY CONTENT COSTS FOR THE YEARS 1939 TO 1951
MID-CONTINENT COSTS ON CRUDE OIL AND REFINED PRODUCTS
UNITED STATES AVERAGE COSTS ON COAL AND NATURAL GAS

Year & Date	Natural Gas ¢/Mcf	Natural Gas ¢/MM Btu	Gasoline ¢/Gal	Gasoline ¢/MM Btu	Kerosine ¢/Gal	Kerosine ¢/MM Btu	Fuel Oil #2 ¢/Gal	Fuel Oil #2 ¢/MM Btu	Residual #6 ¢/bbl	Residual #6 ¢/MM Btu	Crude Oil 35° API ¢/bbl		Crude Oil 35° API ¢/MM Btu	Coal (Bit.) ¢/ton	Coal (Bit.) ¢/MM Btu
1939															
Jan. 5			4.500	36.1¢	4.188	31.3¢	3.438	24.7¢	0.55	8.5¢	1.00		17.1¢		
July 6	4.9	4.67¢	5.063	40.6¢	3.750	28.0¢	2.875	20.6¢	0.50	7.8¢	1.00		17.1¢	1.84	7.0¢
1940															
Jan. 4			4.688	37.6¢	3.875	28.9¢	3.313	23.8¢	0.50	7.8¢	1.00		17.1¢		
July 4	4.5	4.28¢	4.688	37.6¢	3.938	29.4¢	3.313	23.8¢	0.525	8.1¢	1.00		17.1¢	1.91	7.2¢
1941															
Jan. 2			4.625	37.1¢	4.188	31.3¢	3.625	26.0¢	0.625	9.7¢	1.00		17.1¢		
July 3	4.9	4.67¢	6.063	48.6¢	4.625	34.5¢	3.563	25.5¢	0.875	13.6¢	May 1.15		19.7¢	2.19	8.3¢
1942															
Jan. 1			6.125	49.1¢	4.625	34.5¢	3.750	26.9¢	0.875	13.6¢	1.15		19.7¢		
July 2	5.1	4.86¢	5.688	45.6¢	4.625	34.5¢	3.438	24.7¢	0.875	13.6¢	1.15		19.7¢	2.36	8.9¢
1943															
Jan. 7			5.938	47.6¢	4.500	33.6¢	3.563	25.5¢	0.875	13.6¢	1.15		19.7¢		
July 1	5.2	4.95¢	5.938	47.6¢	4.500	33.6¢	3.563	25.5¢	0.825	12.8¢	1.15		19.7¢	2.69	10.2¢
1944															
Jan. 6			5.938	47.6¢	4.250	31.7¢	3.563	25.5¢	0.875	13.6¢	1.15		19.7¢		
July	5.1	4.86¢	5.875	47.1¢	4.500	33.6¢	3.625	26.0¢	0.935	14.5¢	1.15		19.7¢	2.92	11.1¢
1945															
Jan. 5			5.875	47.1¢	4.500	33.6¢	3.625	26.0¢	0.935	14.5¢	1.15		19.7¢		
July	4.9	4.67¢	5.875	47.1¢	4.500	33.6¢	3.625	26.0¢	0.935	14.5¢	1.15		19.7¢	3.06	11.6¢
1946															
Jan. 5			5.813	46.6¢	4.500	33.6¢	3.625	26.0¢	0.935	14.5¢	Apr. 1.25		21.4¢		
July	5.3	5.05¢	6.000	48.1¢	5.000	37.3¢	4.250	30.5¢	1.145	17.8¢	July 1.50		25.7¢	3.44	13.0¢
1947											Nov. 1.60		27.4¢		
Jan.			6.875	55.1¢	5.875	43.8¢	5.000	35.9¢	1.360	21.1¢	Mar. 1.85		31.7¢		
July 5	6.0	5.71¢	8.250	66.1¢	7.138	53.6¢	6.500	46.7¢	2.225	34.5¢	Sept. 2.05		35.2¢	4.16	15.8¢
1948											Dec. 2.55		43.7¢		
Jan. 1			10.875	87.2¢	10.000	74.7¢	9.625	69.1¢	2.475	38.4¢	2.55		43.7¢		
Apr. 8			11.000	88.1¢	10.000	74.7¢	9.563	68.6¢	2.675	41.5¢	2.55		43.7¢		
July 1	6.5	6.19¢	11.500	92.2¢	10.000	74.7¢	9.250	66.4¢	2.575	40.0¢	2.55		43.7¢	4.99	18.9¢
Oct. 7			10.375	83.1¢	9.625	71.8¢	9.125	65.5¢	2.100	32.6¢	2.55		43.7¢		
1949															
Jan. 6			10.125	81.1¢	9.375	70.0¢	8.500	61.0¢	1.55	24.1¢	2.55		43.7¢		
Apr. 7			9.313	74.6¢	8.250	61.5¢	7.375	52.9¢	1.05	16.3¢	2.55		43.7¢		
July 7	6.3	6.00¢	9.750	78.2¢	8.250	61.5¢	6.750	48.4¢	0.875	13.6¢	2.55		43.7¢	4.88	18.5¢
Oct. 6			9.813	78.6¢	8.000	59.7¢	6.875	49.3¢	0.975	15.1¢	2.55		43.7¢		
1950															
Jan. 5			9.750	78.2¢	8.125	60.6¢	7.188	51.6¢	1.225	19.0¢	2.55		43.7¢		
Apr. 6			9.563	76.7¢	8.563	63.8¢	7.688	55.2¢	1.55	24.1¢	2.55		43.7¢		
July 6	6.51	6.20¢	10.313	82.6¢	8.375	62.5¢	7.500	53.8¢	1.65	25.6¢	2.55		43.7¢	4.84	18.3¢
Oct. 5			10.438	83.6¢	8.938	66.7¢	8.313	59.7¢	1.70	26.4¢	2.55		43.7¢		
1951															
Jan. 4			10.313	82.6¢	9.313	69.5¢	8.500	61.0¢	1.85	28.7¢	2.55		43.7¢		
Apr. 5			10.313	82.6¢	9.313	69.5¢	8.438	60.6¢	1.85	28.7¢	2.55		43.7¢		
July 5	6.97*	6.64¢	10.375	83.1¢	9.188	68.6¢	8.313	59.7¢	1.775	27.6¢	2.55		43.7¢	4.87*	18.4¢
Oct. 4			10.375	83.1¢	9.188	68.6¢	8.313	59.7¢	1.75	27.2¢	2.55		43.7¢		
1952															
Jan. 7	7.00*	6.67¢	10.313	82.6¢	9.250	69.0¢	8.375	60.1¢	1.70	26.4¢	2.55		43.7¢	4.87*	18.4¢

*Estimated from data available and past trends.

TABLE 3--COMPARATIVE FUEL PRICES IN CHICAGO USING JANUARY 2, 1952 MID-CONTINENT SOURCE COSTS AND OKLAHOMA TO CHICAGO TRANSPORTATION RATES

	¢/MM Btu	Transportation Rates		Wholesale Cost/MM Btu	
		Per 100 Lbs.	Per MM Btu	Source	Chicago
Natural Gas[1]	53.00	12.64¢[2]	6.70¢	9.59¢	16.3¢
Gasoline	49.36	22.42¢[2]	11.07¢	82.6¢	93.7¢
Kerosine	50.43	20.43¢[2] 45.31¢	10.30¢ 22.84¢	69.0¢	79.3¢ 91.8¢
Fuel Oil No. 2	51.12	19.37¢[2] 45.31¢	9.90¢ 23.16¢	60.1¢	70.0¢ 83.3¢
Butane	47.53	28.50¢[2] 65.51¢	13.55¢ 31.14¢	43.1¢	56.6¢ 74.2¢
Crude Oil	51.05	12.77¢[2]	6.52¢	43.7¢	50.2¢
Residual No. 6	53.65	45.31¢	24.31¢	26.4¢	50.7¢
Coal (lump)[3]	83.33	16.20¢	13.50¢	19.3¢	[illegible]

1. For 0.71376 gravity 1,025 B.t.u. per cubic foot natural gas produced in Texas County, Oklahoma--well head cost 9.8262 cents per M.c.f.--average transportation rate received by Natural Gas Pipeline Company of America in 1950 on natural gas transported and sold to other gas utilities.
2. Pipe line; others rail.
3. For a 12,000 B.t.u. per lb. central Illinois bituminous coal--average mine cost $4.625 per ton--railroad shipping charges from central Illinois to Chicago $3.24 per ton.

TABLE 4--COMPARATIVE FUEL PRICES IN OMAHA, NEBRASKA, USING JANUARY 2, 1952 MID-CONTINENT SOURCE COSTS AND OKLAHOMA TO OMAHA TRANSPORTATION RATES

	¢/MM Btu	Transportation Rates		Wholesale Cost/MM Btu	
		Per 100 Lbs.	Per MM Btu	Source	Omaha
Natural Gas[1]	53.00	17.45¢[2]	9.25¢	9.59¢	18.8¢
Gasoline	49.36	16.23¢[2]	8.01¢	82.6¢	90.6¢
Kerosine	50.43	14.79¢[2] 36.58¢	7.46¢ 18.44¢	69.0¢	76.5¢ 87.4¢
Fuel Oil No. 2	51.12	14.03¢[2] 36.58¢	7.17¢ 18.70¢	60.1¢	67.3¢ 78.8¢
Butane	47.53	20.64¢[2] 54.59¢	9.81¢ 25.92¢	43.1¢	52.9¢ 69.0¢
Crude Oil	51.05	11.09¢[2]	5.66¢	43.7¢	49.4¢
Residual No. 6	53.65	36.58¢	19.64¢	26.4¢	46.0¢
Coal[3]	77.82	24.15¢	18.79¢	26.3¢	45.1¢

1. For 0.71376 gravity 1,025 B.t.u. per cubic foot natural gas produced in Texas County, Oklahoma--well head cost 9.8262 cents per M.c.f.--average transportation rate received by Northern Natural Gas Company in 1950 on natural gas transported and sold to other gas utilities.
2. Pipe line; others rail.
3. For a 12,850 B.t.u. per lb. Henryetta, Oklahoma bituminous coal--average mine cost $6.75 per ton--railroad shipping charges from Henryetta, Oklahoma to Omaha $4.83 per ton.

TRBI

TABLE 5--COMPARATIVE FUEL PRICES IN KANSAS CITY, MISSOURI, USING JANUARY 2, 1952 MID-CONTINENT SOURCE COSTS AND OKLAHOMA TO KANSAS CITY TRANSPORTATION RATES

	#/MM Btu	Transportation Rates		Wholesale Cost/MM Btu	
		Per 100 Lbs.	Per MM Btu	Source	Kansas City
Natural Gas[1]	53.00	13.41¢[2]	7.11¢	9.59¢	16.7¢
Gasoline	49.36	10.82¢[2]	5.34¢	82.6¢	87.9¢
Kerosine	50.43	9.86¢[2] 27.30¢	4.97¢ 13.76¢	69.0¢	74.0¢ 82.8¢
Fuel Oil No. 2	51.12	9.35¢[2] 27.30¢	4.78¢ 13.96¢	60.1¢	64.9¢ 74.1¢
Butane	47.53	13.76¢[2] 41.49¢	6.54¢ 19.72¢	43.1¢	49.6¢ 62.8¢
Crude Oil	51.05	8.40¢[2]	4.29¢	43.7¢	48.0¢
Residual No. 6	53.65	27.30¢	14.64¢	26.4¢	41.0¢
Coal[3]	77.82	18.50¢	14.39¢	26.3¢	40.7¢

1. For 0.71376 gravity 1,025 B.t.u. per cubic foot natural gas produced in Texas County, Oklahoma--well head cost 9.8262 cents per M.c.f.--average transportation rate received by Cities Service Gas Company in 1950 on natural gas transported and sold to other gas utilities.
2. Pipe line; others rail.
3. For a 12,850 B.t.u. per lb. Henryetta, Oklahoma bituminous coal--average mine cost $6.75 per ton--railroad shipping charges from Henryetta, Oklahoma to Kansas City $3.70 per ton.

TABLE 6--ANALYSIS OF ENERGY CONTENT AND SOURCE COST OF 1950 MINERAL FUEL PRODUCTION IN THE UNITED STATES

	Volume[1] Produced	Heating Value Btu/#	Energy Content MMMM Btu	Total Cost[2] MM $	% of Total Heat Content	% of Total Dollar Cost
Natural Gas	6,892,678	22,073[3]	7,237	449	20.84%	5.16%
Petroleum[4]	2,171,187	19,590[5]	12,658	5,537	36.45%	63.60%
Bit. Coal	44,094	13,600	1,199	220	3.45%	2.53%
Bit. Coal	516,311	13,200	13,630	2,499	39.26%	28.71%
TOTALS:			34,724	8,705		

1. Volume listed in MMcf, M Bbls., and M Tons for natural gas, petroleum and coal, respectively.
2. Using 1950 unit source costs shown in Table 2.
3. Equivalent to 1,050 Btu/cu. ft. 0.625 gravity natural gas.
4. Includes 1,943,776,000 barrels of crude oil and 227,411,000 barrels of natural-gas liquids.
5. Equivalent to 5,829,750 Btu/bbl. 35° API gravity crude oil.

[fols. 790-797] EXHIBITS 33 AND 34

Exhibit 33, pp. 797-812, is a contract entered into between Phillips Petroleum Company as seller and Panhandle Eastern Pipe Line Company as purchaser, dated April 5, 1943. Exhibit 34 (p. 813-818) is a supplement thereto, dated April 25, 1944.

The contract of April 5, 1943, contained, among others, provisions to the following effect:

(1) Panhandle was stated to be the owner of a gas pipeline system which secured the greater part of its supply of gas in the Hugoton gas field located in Kansas, Oklahoma and Texas and the Panhandle Field located in Texas; that Phillips was the owner of valid gas leases covering 175,000 acres of land (referred to as the "dedicated acreage") in the Hugoton Field within an area in Texas County, Oklahoma, and the northern parts of Sherman and Hansford Counties, Texas, fully described in the contract and that Panhandle was the owner of gas leases covering approximately 50,000 acres within said area. It was then stated:

[fol. 797a] "It is understood that the dedication of Phillips' said gas leases within said area above described to Panhandle Eastern's pipe line system, as hereinafter provided, will afford Panhandle Eastern a needed additional reserve of gas for its present and anticipated markets and that the gathering, processing and delivering of gas in Panhandle Eastern's pipe line system by Phillips, as hereinafter provided, will assure to Panhandle Eastern a supply of gas from Phillips' dedicated acreage and from Panhandle Eastern's acreage within the area above described with a minimum expenditure by Panhandle Eastern for development, gathering and processing of gas. Phillips hereby dedicates all of its lease within the area above described to the performance of this contract and agrees to sell and deliver to Panhandle Eastern all gas produced from said dedicated acreage, as hereinafter provided; and further agrees to process for Panhandle Eastern, in accordance with the terms of this contract,

all gas produced from Panhandle Eastern's acreage within said area above described."

(2) Subject to the provisions of the contract, Phillips agreed to sell and Panhandle agreed to purchase 28 million cubic feet of gas daily during each year when the total volume of gas delivered into Panhandle's system should not exceed 180 million cubic feet daily with increasing percentages as the total volumes of gas delivered into Panhandle's system should increase. The obligation was limited, however, to "the volumes that may be produced from the dedicated acreage."

(3)The delivery point was to be agreed upon by the parties at a point within 6 miles from Guymon, Oklahoma. Panhandle agreed to construct a pipeline from its Liberal station to said point of delivery of sufficient size and capacity to receive the gas to be delivered under the contract. Phillips agreed to lay all gathering lines to the wells on the dedicated acreage and to construct a plant for the recovery of hydrocarbons and a dehydrating plant for the dehydration of the gas to be delivered under the contract and to gather and deliver the gas to Panhandle at the point of delivery. At Panhandle's option, Phillips agreed to construct such plant of sufficient size to process and dehydrate the gas produced by Panhandle from its [fol. 797b] leases in the area, Phillips retaining one-half of the hydrocarbon products extracted.

(4) Gas from the dedicated acreage was to be delivered at a pressure base of not less than 250 lbs. per square inch during the first five years, not less than 200 pounds for the next five years, and thereafter at not less than 100 lbs.

(5) Phillips agreed to develop the dedicated acreage as needed for the performance of the contract but was not required to drill wells which would not be drilled by a reasonably prudent operator under similar circumstances and was not required to retain by payment of delay rentals acreage which, in its judgment, had been condemned by development. Phillips was also authorized to substitute by exchange leases on other land so long as such substitutions should not operate to reduce the total area of the dedicated acreage.

(6) Delivery of gas from the dedicated acreage was to be commenced as Phillips should have drilled wells productive of gas and the parties should install facilities to effect such deliveries; and each party agreed to use its best efforts to obtain any necessary consent and obtain all necessary materials and install the necessary facilities for the performance of the contract. However, recognizing that due to the national emergency then existing, Phillips, though using its best efforts to do so, might not be able to obtain the materials required for the construction of its hydrocarbon recovery plant and dehydration plant, the parties agreed that if Phillips and Panhandle were able to secure the necessary materials for the other facilities required, Panhandle would receive the gas and to the extent of its capacity at the Liberal plant recover hydrocarbons from and dehydrate such gas and deliver to Phillips one-half the hydrocarbons so recovered until such a time as Phillips should be able to obtain the necessary materials.

[fol. 797c] (7) Phillips was given the right prior to delivery of gas from the dedicated acreage to deliver gas from wells drilled on acreage outside the area described, whereupon those wells would be dedicated to the supplying of gas to Panhandle.

(8) Phillips' obligation to deliver gas under the contract was limited to gas that could be lawfully produced from wells drilled on the dedicated acreage and other wells connected under certain options contained in the contract.

(9) All gas delivered was required to contain less than one grain of hydrogen sulphide and less than 20 grains of total sulphur per 100 feet. Heating value was to be not less than 950 British Thermal Units per cubic foot, and if less than 975, adjustment of price was to be made proportionally. All gas delivered was to be dehydrated by Phillips to a point sufficient that formation of hydrates in the line would not interfere with the transportation of the gas through Panhandle's line to its Liberal station.

(10) Panhandle agreed to pay for the gas delivered, whether in its natural state or with recoverable hydrocarbons removed, 4¢ per thousand cubic feet, the price to be increased ½ cent per thousand cubic feet each succes-

sive five-year period. Provision was made for arbitration of price after 15 years and protection against abnormal inflation or deflation through a consideration of the Federal Bureau of Labor's statistical Index of wholesale prices of commodities and increases of prices allowed by the Federal Power Commission to Panhandle on its sales.

(11) The unit of measurement for computing volume was fixed at one cubic foot at an absolute pressure of 16.4 pounds per square inch, at a temperature of 60° Fahrenheit, [fol. 797d] computed in accordance with Boyle's Law with allowances for deviations from Boyle's Law. Phillips was required to install, maintain and operate meters through which the gas delivered should be measured.

The contract of April 5, 1943, was amended by letter agreement (Ex. 34) of April 25, 1944 (pp. 813). By that document it was among other things agreed:

(a) The delivery point for gas from the dedicated acreage was stated to be a point selected by Phillips in Section 7, Block 1, Hansford County, Texas, and not more than 15 miles from Panhandle's Hansford Station. Panhandle agreed to construct a pipeline from said delivery point to the intake of its said compressor station. Phillips agreed to lay all gathering lines to the wells on the dedicated acreage and to construct a plant for the recovery of hydrocarbons and a dehydration plant, both plants to be located adjacent to the delivery plant, and to gather and deliver the gas to Panhandle at such delivery point. Phillips also agreed, at the option of Panhandle, to provide capacity in such plants for the recovery of hydrocarbons from and the dehydration of the gas from Panhandle's acreage within the area and process such gas in said plant, retaining for itself one-half of the hydrocarbon products so recovered.

(b) The pressure of the gas to be delivered at the point referred to from the dedicated acreage was fixed at not less than 100 pounds below the average of the shut-in pressures of the wells and in any event not less than 100 pounds per square inch. Until the construction by Panhandle of a compressor station, the point at which such pressures

would be maintained at the point of delivery and, thereafter, at the intake of Panhandle's compressor station. [fols. 797c-818] (c) Panhandle agreed that when, in order to transmit the gas through its pipeline, it should be necessary to compress the gas to pressures higher than those maintained by Phillips, the compressor would be installed on the upstream or well side of, and adjacent to Phillips' gasoline plant, and Phillips agreed that its gasoline plant would be of such construction that it would operate safely at exhaust pressures of the compressors up to 550 pounds. The compressors were to be installed and operated by Panhandle. Provision was made for an adjustment to Panhandle for the shrinkage of volumes of gas resulting from extraction of hydrocarbons and gas used for fuel in the operation of the extraction plant.

* * * * * * *

[fol. 819] 8. In lieu of printing Exhibits 35, 36 and 37, the following statement with reference thereto may be printed:

EXHIBITS 35, 36 AND 37

Exhibit 35 (pp. 819-891) is a contract entered into between Phillips Petroleum Company, as seller, and Michigan-Wisconsin Pipe Line Company, as purchaser, on December 11, 1945. Exhibits 36 (pp. 892-907) and 37 (pp. 908-913) are amendments to that contract dated August 9, 1948, and December 1, 1949, respectively.

The contract of December 11, 1945, contained among others provisions to the following effect:

(1) Buyer represented that it proposed to construct and operate a gas pipe line system extending from the point of delivery specified in the contract in the Hugoton Gas Field in Hansford County, Texas, in a northeasterly direction to points of connection with distribution systems in Wisconsin and Michigan, or either of them, and at intermediate points, and that in order to assure a supply of natural gas for the pipe line it desired to have dedicated and made available to the pipe line gas acreage having [fol. 819a] underlying commercially recoverable gas re-

serves as provided in the contract. Seller represented that it owned or controlled by gas purchase contracts gas leases on acreage in the Hugoton Field in Dallam, Sherman and Hansford Counties, Texas, and Texas County, Oklahoma, shown by cross-hatching on the map attached to the contract, the gas leases owned by Seller and those controlled under gas purchase contracts being separately shown on Exhibit A thereto; that Seller was willing, subject to the provisions of the contract and the reservations therein contained, to make available to the pipe line the gas reserves underlying said acreage.

(2) Buyer agreed to proceed with diligence to procure all governmental authority, permits and rights necessary for the construction and operation of the pipe line, and upon procuring same to proceed with diligence in the construction of the pipe line. Provision was made authorizing the Seller to terminate the contract under certain contingencies relating to failure to obtain from the Federal Power Commission a Certificate of Convenience and Necessity, or the failure of Buyer to carry on the construction program set forth in the contract.

(3) Seller agreed upon construction of the pipe line to proceed with diligence in the drilling of wells and the installation of facilities, but in connection therewith was authorized to terminate the contract on certain contingencies therein set forth.

(4) Reference was made to acreage identified on Exhibit A attached thereto as "Phillips' leased acreage", covered by gas leases owned by Seller, and to acreage identified on said Exhibit as "Phillips' contracted acreage", covered by gas purchase contracts between producers as sellers and Seller as buyer, a copy of each of which contracts was attached thereto, and it was stated:

> "Seller hereby dedicates to the pipe line and agrees to sell and deliver to Buyer all gas produced and [fol. 819b] saved from the acreage covered by this Contract and shown on Exhibit A";

excepting therefrom all volumes produced from depths below sea level, all volumes used for the development and operation of leases and reserved by lessors in leases for

domestic purposes, all volumes lost by shrinkage due to removal from the gas of the products Seller was required or entitled to remove under the terms of the contract, all volumes used for operation of Seller's processing plants and the operation of facilities used for delivery of gas to Buyer, and all other volumes of gas reserved by the terms of gas purchase contracts set forth in Exhibit A attached.

(5) Seller agreed to pay all delay rentals to keep its gas leases in good standing and continue the development of such leases as needed for the performance of the contract, but was not required to drill more than one well to each 640 acres or to drill wells which would not be drilled by a reasonably prudent operator under similar circumstances. Seller was not required to retain by payment of delay rentals acreage which in its judgment had been condemned by development or producing acreage which could no longer be operated at a profit, and as to such leases provision was made giving Buyer an opportunity to acquire such leases. Provision was also made for substitution of other acreage for acreage described in the contract.

(6) Seller was not required to deliver to Buyer greater volumes of gas than could be legally produced from the acreage covered by the contract less the volumes of gas excepted and reserved by the contract.

(7) Subject to the provisions of the contract, Seller agreed to sell and Buyer to purchase all of Buyer's requirements for gas in the pipe line in accordance with minimum and maximum quantities set forth therein, the maximum daily volume commencing with July 1, 1952, being 343 million cubic feet and the minimum volume 255 [fol. 819c] million cubic feet.

(8) The point of delivery was fixed at the outlet of a meter station to be installed and operated by Seller at a location within one mile of the southwest corner of Section 8, Block 1, Hansford County, Texas, and the delivery pressure to be not less than 200 pounds per square inch.

(9) The contract contained provisions as to quality of the gas deliverable under the contract. Among other things, such provision required that the gas be free of water and hydrocarbons in liquid form; that it contain not more than one grain of hydrogen sulfide or more than 20 grains of

total sulphur per hundred cubic feet; that the heating value be not less than 970 nor more than 1,020 British Thermal Units. Within the limits of the minimum heating value, Seller retained the right to remove from the gas any constituents other than methane and to remove such methane as is necessarily removed from the gas in the process of removing other constituents.

(10) To meet Seller's operating conditions, Seller reserved the option to install its natural gasoline plant for the extraction of hydrocarbons from the gas delivered on the pipe line downstream from Buyer's initial compressor station located at or near the delivery point. In the event plants were located downstream from the compressor station, the contract provided for certain allowances for shrinkage in extraction and other matters not deemed necessary to be here stated. (The plant, when constructed, was not so located but was located on the upstream side of the compressor station.)

(11) Buyer agreed to pay Seller five cents per thousand cubic feet for the first five-year period, and provision was made for increases during subsequent five-year periods, and in order to protect the parties from too great burden in the event of abnormal inflation or deflation of prices generally, provision was made for adjustment in accordance with the Federal Bureau of Labor's statistical index of wholesale prices of all commodities.

[fols. 819d-915] (12) The unit of volume of gas for the application of the price provisions of the contract and the volumes to be delivered was fixed at one cubic foot at an absolute pressure of 14.735 pounds per square inch at a temperature of 60 degrees Fahrenheit computed in accordance with Boyles' law with corrections for deviation.

(13) The term of the contract was fixed at so long as gas should be produced from the acreage covered by the gas leases and gas purchase contracts in paying quantities from depths above sea level, or until the amount of gas available to Buyer should be so reduced that further operation of the pipe line would, in Buyer's judgment, no longer be profitable and such operation should be discontinued.

The contract of August 9, 1948, amended the contract of December 11, 1954, primarily with respect to increased dedication of acreage and changing the dates by which cer-

tain operations were to be completed by Purchaser. Some changes were also made by that contract in the quantities delivered within certain periods and the base price was increased so as to commence with seven and one-half cents per thousand cubic feet for all gas delivered during the first five years of delivery with certain increases and adjustments under certain circumstances therein.

The contract of December 1, 1949, further amended the contract of December 11, 1945. Primarily that contract required measurement of gas be at 14.65 pounds per square inch in order to comply with the Texas Gas Measurement Statute, and the price to be paid for such gas was proportionally reduced when applied to gas measured on that basis.

* * * * * * *

[fol. 316]

EXHIBIT 39

Phillips Petroleum Company

Hugoton Area

Liquid Income Versus Gathering and Processing Costs Based on the Year 1951 and a Commission Order of 9.82¢ per M. C. F. of Gas Produced and Purchased at the Wellhead

	In Cents per M. C. F. of Gas Produced and Purchased	
	Sherman System	Hansford System
Income from Liquids:		
25-70	2.09¢	2.13¢
Less Handling Allowance	.05	.05
	2.04	2.08
Butane	.21	.49
Propane	.08	.38
Total	2.33	2.95
Gathering and Processing Costs:		
Gathering	1.20	1.06
Processing	.38	.84
Extraction, Fuel and Loss @ 9.82¢ per M.	.25	.53
Residue Delivery	.01	.01
Total	1.84	2.44
Net Income from Liquids before Income Tax	.49	.51
Less: Federal Income Tax @ 52%	.25	.27
Net Income if gas is purchased and sold at the same price	.24	.24
Net Investment in Facilities at December 31, 1951	$15,557,556.28	$4,210,887.57
Return on Investment	1.90%	2.23%
Gas Produced and Purchased at the Wellhead M. C. F. @ 14.65#	123,399,016	38,586,740

[fols. 917-918]

EXHIBIT 40

Before the Corporation Commission of the State of Oklahoma

In re: In the Matter of the Application of Certain Mineral Owners in Texas County, Oklahoma, for an Order Determining the Minimum Price at which Gas Produced from the Guymon-Hugoton Field May Be First Purchased or Sold. — Cause CD 3028

EXHIBIT 40

Phillips Petroleum Company

System	Gross Investment Dec. 31, 1951	Reserves for Depreciation Dec. 31, 1951	Net Investment Dec. 31, 1951
Sherman:			
Gathering	$13,254,611.69	$1,034,872.92	$12,219,738.77
Processing	3,654,728.74	352,214.53	3,302,514.21
Residue Delivery	35,608.48	305.18	35,303.30
Total Sherman	16,944,948.91	1,387,392.63	15,557,556.28
Hansford:			
Gathering	$ 2,945,749.24	$ 494,705.22	$ 2,451,044.02
Processing	2,007,532.92	289,683.43	1,717,849.49
Residue Delivery	51,107.95	9,113.89	41,994.06
Total Hansford	5,004,390.11	793,502.54	4,210,887.57

[fol. 919]

EXHIBIT 42

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 3048

Order No. 24745

IN THE MATTER OF THE APPLICATION OF PANOMA CORPORATION for a Clarification of Order No. 19514, and for an Order of this Commission directing the action to be taken by applicant and Natural Gas Pipeline Company of America under and pursuant to said Orders.

Report of the Commission

This cause came on for hearing before the Corporation Commission of the State of Oklahoma in its court room in the Capitol Office Building, Oklahoma City, Oklahoma, on the 14th day of February, 1951, on the application of

Panoma Corporation for an order interpreting and enforcing Order No. 19514, issued by this Commission, at which time Natural Gas Pipeline Company of America requested that said cause be continued and the cause was then continued for hearing to the 5th day of April, 1951.

On the 5th day of April, 1951, said cause was again called for hearing on the application filed herein by Panoma Corporation and the response thereto filed by Natural Gas [fol. 920] Pipeline Company of America. The applicant was represented by T. Murray Robinson, Wallace E. Robertson, Kent W. Shartel and Richard W. Fowler, its attorneys, and the respondent, Natural Gas Pipeline Company of America was represented by its attorneys, S. A. L. Moran, Warren Spies, D. H. Culton and Monnet, Hayes, Brown and Bullis, by Coleman Hayes; the Commission was represented by Floyd Green, Conservation Attorney, and no other persons appeared. All appearing parties announced ready for trial, and the applicant and respondent presented their evidence and said cause was heard throughout the day of April 5, 1951, and continued for further hearing to April 6, 1951, and on the 6th day of April, 1951, the parties appearing as before, the Commission heard the arguments of counsel and both parties rested, and the Commission closed the case and took the matter under advisement, authorizing counsel to file briefs in support of their respective positions.

Now, on this 17th day of May, 1951, the Commission having considered the matter in conference, and each of the Commissioners being fully advised as to the entire record and having considered all evidence introduced, the arguments of the parties, and the briefs filed, and being well and sufficiently advised, is of the opinion that the [fol. 921] Commission should act on the application to the following extent, and the Commission finds as follows:

Findings

1. That notice by publication of the filing of the application and the time and place of hearing thereon and the purpose of said hearing, has been regularly given in all respects as required by law, and the Commission has jurisdiction of the subject matter embraced in the application

and of the parties interested therein, and has jurisdiction to issue and promulgate the hereinafter prescribed order.

2. That, pursuant to a contract dated December 1, 1946, Harrington & Marsh the Predecessors of Panoma Corporation, during August of 1948, commenced the delivery of natural gas from wells owned by them in the Guymon-Hugoton field in Texas County, Oklahoma, to Natural Gas Pipeline Company of America, and thereafter such deliveries were continued by Panoma Corporation as purchaser and successor to all of the properties, rights and obliga-[fol. 922] tions of Harrington and Marsh; that the parties hereto have agreed that all determinations by this Commission may be made as if said deliveries had at all times been made by Panoma Corporation.

3. That said gas was delivered, but not metered or measured, at a compressor station owned and operated by Natural Gas Pipeline Company of America and located in Texas County, Oklahoma; that the amount of gas so delivered could be and may at all times be computed although it is not there metered.

4. That the provisions of order No. 19514 became effective as of January 1, 1947 and after said date no gas produced therefrom could legally be sold or purchased in the Guymon-Hugoton Field in Texas County, Oklahoma, at a price of less than seven cents (7¢) per thousand cubic feet, measured at a pressure base of 14.65 pounds absolute pressure per square inch and does and did prohibit sales and purchases for any lesser amount.

[fol. 923] 5. That uncertainty as to the finality of this Corporation's Order No. 19514 created by the appeal therefrom to the Supreme Court of the State of Oklahoma, and the Supreme Court of the United States justified applicant in continuing the delivery of gas, without receiving payment, concurrent with the delivery, at the minimum price fixed by this Commission, until the time said order was affirmed by the Supreme Court and the mandate of affirmance filed with this Commission; this Commission had no knowledge of the acts of the parties, which the Commission now finds were in violation of its order, until this proceeding was filed.

6. That deliveries or acceptance of gas in Oklahoma,

produced from the Guymon-Hugoton field in Oklahoma, that are not in compliance with Order No. 19514, are prohibited by said Order and the deliveries of Panoma Corporation and receipt or acceptance by Natural Gas Pipeline Company of America are not in compliance with said order and are in violation thereof and should be stopped.

7. That the amount which the Natural Gas Pipeline Company was obligated to pay, and should have paid to comply with this Commission's Order, was seven cents (7¢) for each thousand cubic feet of gas, measured at an absolute pressure base of 14.65 pounds per square inch, which the Panoma Corporation delivered to the Natural Gas Pipeline Company of America at its compressor station and such respondent has not paid such amount and has refused [fol. 924] to pay such amount although requested to do so.

8. That the stipulated amount of gas so delivered by Panoma Corporation to Natural Gas Pipe Line Company of America at said compressor station to the first day of January, 1951, was 70,992,632 thousand cubic feet, and that is the amount, so far as it can be determined, which was produced at the wellhead.

9. That a reasonable time hereafter, in which to comply with said order is twenty (20) days, and Natural Gas Pipeline of America should, within 20 days from the date of this order, pay Panoma Corporation the difference between the amount it has heretofore paid for such gas delivered to it by Panoma and the amount which it should have paid for the gas as herein determined; computed at seven cents (7¢) per thousand cubic feet measured at a pressure base of 14.65 pounds per square inch absolute, and unless Natural Gas Pipeline Company of America makes such payment in compliance with said order during the period and in the manner provided herein, Panoma Corporation should be directed to thereupon stop delivering gas to Natural Gas Pipeline Company of America and to file with this Commission an application for a share in the available markets that are complying with the orders of this Commission.

[fol. 925] 10. The Commission further finds that Order No. 19702, entered upon the application of Phillips Petroleum Company, was not entered as a fieldwide order, but

was entered as affecting a part thereof only and on the application of an owner of a portion of the wells in the field, and was based on facts presented to the Commission in support of the special relief or exception which the applicant in that case had requested; that therein the Commission specifically found that applicant "did not see fit to introduce any evidence as to profit or losses from the production of natural gas from the Guymon-Hugoton Field"; that this Commission does not feel it is bound herein by any determination of facts or any order entered therein; that this Commission is not required herein to vacate, modify or interpret Order No. 19702; however, since respondent's contention that such order is in conflict with the findings and judgment of the Commission herein, this Commission deems it appropriate to now find that when it entered its Order No. 19514 determining;

> "That no natural gas shall be taken out of the producing structures or formations in the Guymon-Hugoton field in Texas County, Oklahoma, at a price at the wellhead, of less than 7¢ per thousand cubic feet of natural gas measured at a pressure of 14.65 pounds absolute pressure per square inch",

that it applied to all producers, purchasers and takers of gas from said field, and that no sales or purchases of natural gas would be thereafter permitted in the Guymon-Hugoton field at a price of less than 7¢ per thousand cubic feet, measured at a pressure base of 14.65 pounds absolute [fol. 926] per square inch; that the minimum price thus established would govern at the wellhead and at any other point in said Guymon-Hugoton field at which said gas would thereafter be delivered by a producer to a purchaser, so that the owners of the gas within said reservoir, being the lessees and the lessors, and other persons owning an interest in the gas in place, should at all times from and after the issuance of said order, receive from the delivery of their gas, as owners and producers thereof, not less than the minimum price fixed by the Commission.

11. That Order No. 19514 should be strictly enforced for the prevention of waste, the prevention of which is the basic purpose of said order and Natural Gas Pipeline Com-

pany of America should not be permitted to plead its contract in avoidance thereof; and the contracts of the parties, neither by direction, implication nor complication can defeat the effect of the order of this commission and to hold otherwise would cause and permit waste, and to adopt or accept the contentions of respondents would cause and invite discrimination and general breakdown of the regulations preventing waste and protecting the correlative rights of the parties.

12. That to protect the correlative rights of the parties and to prevent waste, this order should be issued.

[fol. 927] Order

It is therefore Ordered by the Corporation Commission of Oklahoma as follows:

1. That Natural Gas Pipeline Company of America is granted 20 days from date hereof in which to comply with Order No. 19514, by paying unto Panoma Corporation the difference between the amount which it has paid Panoma Corporation and the amount Panoma Corporation was entitled to receive for gas heretofore delivered and paid for at a lesser price, so that the total amount paid for gas delivered during the period covered by such payments will equal 7¢ per thousand cubic feet for the amount of gas delivered to said compressor station, and measured at a pressure base of 14.65 pounds absolute pressure per square inch, and if it does not so do within such time Panoma Corporation is directed to forthwith cease delivering gas to Natural Gas Pipeline Company of America.

2. That Natural Gas Pipeline Company of America does not comply with Order No. 19514 by paying to Panoma Corporation 6¢ per thousand cubic feet of gas, for a part of the gas delivered, measured at a pressure base 16.5 pounds per square inch absolute pressure, and it is directed to desist from so doing and is directed to comply with said order.

3. That Natural Gas Pipeline Company of America shall pay Panoma Corporation for the gas delivered to its compressor station, the sum of 7¢ per thousand cubic feet, measured at a pressure base of 14.65 pounds absolute per

[fol. 928] square inch. In the event of its failure to do so, Panoma Corporation is ordered to stop delivery of gas to Natural Gas Pipeline Company of America.

Done and Performed by the Corporation Commission of Oklahoma at its office in the Capitol Office Building, Oklahoma City, Oklahoma, this 17th day of May, 1951.

Corporation Commission of Oklahoma, Reford Bond, Chairman, Ray O. Weems, Vice-Chairman, Ray C. Jones, Commissioner.

Attest: Tom McMurray, Secretary.

[fol. 929] EXHIBIT 43

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 1054

Order No. 19702

PEERLESS OIL AND GAS COMPANY, a Corporation, Applicant,

vs

CITIES SERVICE GAS COMPANY, A CORPORATION AND ALL Operators, Producers and Takers of Natural Gas in the State of Oklahoma, and particularly in the Guymon-Hugoton Field, Respondents.

THE SCHOOL LAND COMMISSION OF THE STATE OF OKLAHOMA and Texas County Land & Royalty Owners Association, Interveners.

Report of the Commission

This cause came on for hearing before the Corporation Commission of Oklahoma on the 31st day of January, 1947, at 1:30 o'clock, p. m., in the Commission's Court Room, Capitol Office Building, Oklahoma City, Oklahoma; the Honorable Reford Bond, Chairman, Ray O. Weems, Vice-Chairman and Ray C. Jones, Commissioner, sitting. Ray M.

Williams, Attorney of Bartlesville and Harry Turner, Attorney of Oklahoma City, appeared for the applicant, Phillips Petroleum Company; Earl Pruet, Attorney of Oklahoma City, appeared for the respondent Peerless Oil & Gas Company, and Floyd Green, Conservation Attorney, appeared for the Commission.

After hearing the cause, the matter was continued until February 4th, 1947, at 1:30 o'clock, P. M., for the purpose of hearing oral argument. On February 4th, 1947, after hearing oral argument and being well and sufficiently ad-[fol. 930]vised in the premises, the Commission denied the application and therefore finds as follows:

Findings

1. That this is an application of the Phillips Petroleum Company, for an order vacating Orders Numbers 19514 and 19515 heretofore issued in this cause on the 9th day of December, 1946.

2. That this Commission has jurisdiction over the subject matter herein, that notice has been given in all respects as required by law, and that protests have been filed to the granting of the order.

3. That this cause was originally heard prior to December 9th, 1946, and that Orders Numbers 19514 and 19515 were issued pursuant to notice regularly given and that the applicant herein, Phillips Petroleum Company had notice of the proceedings and did not enter an appearance therein.

4. That Order No. 19514 had for its purpose the fixing of a minimum price for natural gas at the wellhead in the Guymon-Hugoton Field, which price was applicable to all producers, purchasers and takers of gas in the field; that the applicant herein, Phillips Petroleum Company, is both a producer and taker of natural gas in the field and transports the gas produced from its lesses in Texas County, across the Oklahoma line to a gasoline plant located in [fol. 931] Texas, one-half mile south of the Oklahoma line adjacent to Texas County, Oklahoma; that all of the gas produced by Phillips Petroleum Company in Texas County, Oklahoma, is transported to said plant where 6/10ths of

one gallon of liquid hydrocarbons are extracted from each thousand cubic feet of gas produced in Texas County, Oklahoma; that the residue gas is then transported by Phillips Petroleum Company from said plant to the nearby location where same is delivered to the Panhandle Eastern Pipe Line Company at a price presently in the amount of 4.67 cents per thousand cubic feet; that the applicant herein then transports daily some 80,000 gallons of liquid hydrocarbons extracted from the natural gas at the plant in Texas, to another plant owned by applicant near Borger, Texas, where the liquid hydrocarbons are then further refined and sold by the applicant herein; that the larger percentage of the liquid hydrocarbons extracted is 26-70 gasoline which has a current market value of between 5 and 5¼ cents per gallon; that the applicant herein, Phillips Petroleum Company, is now realizing from the natural gas produced in the Guymon-Hugoton Field, the equivalent or approximately 7¢ per thousand cubic feet at the wellhead within the terms and meaning of Orders Nos. 19514 and 19515; that the applicant, Phillips Petroleum Company, did not see fit to introduce any evidence as to profits or leases from the production of natural gas in the Guymon-Hugoton Field and since the application filed herein al-[fol. 932] leged hardship if forced to comply with Orders Nos. 19514 and 19515, it was incumbent upon the applicant to introduce proof showing wherein such hardship would occur.

5. That applicants complain that paragraph 1 of Order No. 19514 and paragraph 4 of Order No. 19515 prohibit said applicant from producing any natural gas in the Guymon-Hugoton Field, and taking same from the formation because of the requirement that said gas must be sold at a price of 7¢ per thousand cubic feet at the wellhead; that said orders were meant to prohibit the production of natural gas from the producing formations in said field unless same was sold at a price of 7¢ per thousand cubic feet on the measurement basis provided for in said orders, if same were sold, but if not sold, that said gas should be so utilized and/or sold, that the producer would realize therefrom the equivalent of 7¢ per thousand cubic feet at the wellhead and on the pressure basis provided for in Orders

Nos. 19514 and 19515; that the applicant, Phillips Petroleum Company, is realizing from the utilization and sale of natural gas produced by it in the Guymon Field, the equivalent of 7¢ per thousand cubic feet at the wellhead, on the [fol. 933] pressure basis of measurement provided for in said orders for all natural gas produced by it in the Guymon-Hugoton Field; therefore in that respect applicant is already complying with orders Nos. 19514 and 19515.

6. That inefficient and wasteful utilization of natural gas produced in said field have resulted and will result, unless producers in said field receive for said natural gas or realize the equivalent of 7¢ per thousand cubic feet of natural gas at the wellhead, measured at a pressure of 14.65 pounds absolute pressure per square inch; that the price presently being paid for natural gas varies throughout the field with no uniform price and that this Commission, unless it fixes a uniform price for the field, is permitting dis- [fol. 934] crimination in price which adversely affects many producers and royalty owners; that the price being paid has no relation to the intrinsic value of the natural gas and is not a comparable price with other fuels; that it has no relation to the replacement value of the natural gas and one of Oklahoma's natural resources is being dissipated and wasted all to the detriment of the producers, royalty owners, School Land Commission, and the State of Oklahoma, and unless a price is fixed that has some relation to its actual value, the inefficient and wasteful utilization of gas from the Hugoton Field will result in great losses of one of Oklahoma's most valuable resources.

7. That applicant herein, Phillips Petroleum Company, is not injured by the application of a 7¢ price of all gas produced by it in the Hugoton Field since it is presently realizing approximately that amount at this time.

8. That this application should be denied in the interest of preventing: (a)—economic waste of a great natural resource to wit: natural gas, (b)—actual physical waste of natural gas in the Hugoton Field, (c)—loss to the producers and royalty owners in said field, (d)—loss to the State of Oklahoma in revenues in the form of gross production tax and loss to the schools of the State of Oklahoma in the form of lessening royalties accruing to the School

Land Commission, (e)—the inequitable taking of natural gas from the common source of supply owned by all; (f)—discrimination as to prices paid throughout the field which discrimination adversely affects many royalty owners and producers, (g)—the inefficient and wasteful utilization of [fol. 935] natural gas.

9. That this application should be denied.

Order

It is therefore ordered by the Corporation Commission of the State of Oklahoma, that this application to vacate Orders Numbers 19514 and 19515, heretofore issued by this Commission in this cause on the 9th day of December, 1946, be and the same is hereby denied.

Done and performed this the 4th day of February, 1947.

Corporation Commission of Oklahoma, Reford Bond, Chairman, Ray O. Weems, Vice-Chairman, ———, Commissioner.

Attest: Tom McMurray, Secretary.

(Seal)

[fol. 936] EXHIBIT 44

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 1054

Order No. 19514

PEERLESS OIL AND GAS COMPANY, a Corporation, Applicant,

vs.

CITIES SERVICE GAS COMPANY, A CORPORATION AND ALL Operators, Producers and Takers of Natural Gas in the State of Oklahoma, and particularly in the Guymon-Hugoton Field, Respondents.

THE SCHOOL LAND COMMISSION OF THE STATE OF OKLAHOMA and Texas County Land & Royalty Owners Association, Interveners.

Report of the Commission

This cause came on for hearing before the Corporation Commission of the State of Oklahoma in its Court Room in the Capitol Office Building, Oklahoma City, Oklahoma, on the 26th day of November, 1945, at 10:00 o'clock a. m., on the application of Peerless Oil and Gas Company, a corporation, and on the intervention of the School Land Commission of the State of Oklahoma and the Texas County Land and Royalty Owners Association, pursuant to order of the Commission setting the cause for hearing and proper and legal notice. The applicant, appearing by and through Earl Pruet, its attorney, the respondent Cities Service Gas Company, a corporation, appearing by and through R. E. Cullison and Joe Rolston, Jr., the School Land Commission of the State of Oklahoma appearing by and through Walter Marlin and W. D. McBee, its attorneys, and the Texas [fol. 937] County Land and Royalty Owners Association appearing in person, and the other interested parties appearing not, and the Commission being represented by Floyd Green, Conservation Attorney, and all parties who appeared and entered their appearances herein having an-

nounced ready for trial, the applicant and interveners presented their evidence and rested, and Cities Service Gas Company introduced its evidence and rested; and all of said parties having introduced rebuttal evidence, the Commission closed the case and took the matter under advisement.

Now, on this 9th day of December, 1946, the Commission, having considered the matter in conference and each of the Commissioners having read the entire record herein and being well and sufficiently advised, is of the opinion that the application should be granted to the following extent and finds as follows:

Findings

1. That notice by publication of the filing of the application herein, the time and place of hearing thereon and the purpose of said hearing has been regularly given in all respects as required by law, and the Commission has jurisdiction of the subject matter embraced in said application and all parties interested therein and jurisdiction to issue and promulgate the hereinafter prescribed order.

[fol. 938] 2. That Peerless Oil and Gas Company is a corporation organized and existing under and by virtue of the laws of the State of Delaware and duly authorized to transact business in the State of Oklahoma.

3. Cities Service Gas Company is a corporation duly organized and existing under and by virtue of the laws of the State of Delaware and duly authorized to transact business in the State of Oklahoma.

4. That this application involves the Guymon-Hugoton Field, which constitutes one common source of supply of gas, although there are three or more producing horizons that are interconnected, which are known as the Crider, Winfield, and Harrington horizons and are found at an approximate depth of 2810 feet. There are approximately 300 wells in said pool, some of which are not now connected to pipeline and producing; that the virgin pressure in said pool was approximately 442 pounds, but at the present time it has been reduced to approximately 400 pounds; that the total reserves are estimated at seven trillion cubic feet of natural gas. The limits of the probably productive area of the Guymon-Hugoton pool in Texas County, Okla-

homa, covers part of the following described townships, to-wit:

Townships:		Ranges:
1	North	12 to 17 E. C. M.
1, 2, 3, and 4	North	12 to 18 E. C. M.

and

5 and 6	North	12 to 19 E. C. M.

which area may be extended by the drilling of additional wells.

[fol. 939] 5. Peerless Oil and Gas Company is the owner of valid and subsisting oil and gas leases covering approximately 110,000 acres of minerals in the common source of supply aforesaid, which oil and gas leases include leases covering

Section 8, Township 4 North, Range 16 E. C. M., Texas County, Oklahoma,

and

Section 5, Township 4 North, Range 16 E. C. M., Texas County, Oklahoma.

in which the two wells of Peerless Oil and Gas Company, referred to in applican-'s petition, have been drilled.

6. The Texas County Land and Royalty Owners Association and the School Land Commission of the State of Oklahoma are the owners of minerals situated and located in the common source of supply aforesaid and are therefore interested in the matters and things involved herein.

7. Cities Service Gas Company, respondent herein, is the owner of various gas wells from which it is now and has been for a considerable length of time producing natural gas from the reservoir into which said well owned by Peerless Oil and Gas Company has been drilled.

8. Cities Service Gas Company is engaged in the transportation of natural gas in and from the Guymon-Hugoton, Oklahoma, gas field for a compensation, hire, and otherwise, from the same common source of supply or reservoir of natural gas into which said well of applicant has been drilled as aforesaid.

[fol. 940] 9. The production of natural gas in the Guymon-Hugoton field is in excess of the market demand.

10. The Cities Service Gas Company is now and has been at all times involved herein engaged in the business of buying and selling natural gas in the Guymon-Hugoton, Oklahoma gas field and in the State of Oklahoma, and is a common purchaser of natural gas within the meaning of the statutes of the State of Oklahoma defining common purchasers. Cities Service Gas Company purchases natural gas from more than fifty persons, firms and corporations in the State of Oklahoma.

11. The Cities Service Gas Company is in fact a common purchaser of natural gas.

12. The Cities Service Gas Company is now, and has been at all times involved herein, engaged in using the highways of the State of Oklahoma for the purpose of laying natural gas pipe lines for the purpose of transporting natural gas.

13. Cities Service Gas Company is in fact and in law a common carrier of natural gas.

14. Cities Service Gas Company is now and has been at all times involved herein, engaged in taking natural gas from a gas field, to-wit: the Guymon-Hugoton Oklahoma gas field, for purposes other than the purpose of developing a gas or oil field, or operating oil wells or for the purpose of its own domestic use.

[fol. 941] 15. Cities Service Gas Company, a corporation, respondent herein, produces and purchases natural gas in the State of Oklahoma, transports the same and sells the same both directly and indirectly to the public for light, heat and power.

16. Cities Service Gas Company maintains and operates pipe lines for the transportation of natural gas in said Guymon-Hugoton Oklahoma gas field, one of which said pipe lines is in close proximity to said Section 8, in which the well of applicant involved herein has been drilled.

17. That Cities Service Gas Company, respondent herein; qualified to do business in the State of Oklahoma on the 19th of April, 1946, and thereby accepted and agreed to comply with the laws of the State of Oklahoma covering its operations thereafter.

18. Said respondent qualified to do business in the State of Oklahoma with full knowledge of the laws of the State of Oklahoma relating to the ratable taking of natural gas and all statutes relating to natural gas, and was thereafter a party in the case of Oklahoma Natural Gas Company vs. State, 161 Okla. 104, 17 page (2) 488, which decision required to table taking of gas under and by virtue of an order similar to that sought in the instant case.

19. That the operation of the responednt, Cities Service Gas Company, constitute it a transporter of natural gas.

[fol. 942] 20. A bona fide dispute has arisen between the applicant, Peerless Oil and Gas Company, a corporation, and respondent Cities Service Gas Company, as to the price, measurement and term of the taking of natural gas by Cities Service Gas Company from the gas wells of Peerless Oil and Gas Company drilled into and producing from said common source of supply in Sections 5 and 8, Township 4 North, Range 16 E. C. M., Texas County, Oklahoma.

21. Peerless Oil and Gas Company, prior to the time of the filing of this action, made a tender to Cities Service Gas Company of the natural gas to be produced from the wells in said Section 5 and 8, and Cities Service Gas Company signified its willingness to take the natural gas therefrom but refused to pay more than 4¢ per thousand cubic feet of natural gas, measured at a pressure of 16.4 pounds absolute pressure per square inch, at the wellhead and refused to take natural gas from said wells unless applicant herein would dedicate all of its oil and gas leases covering approximately 110,000 acres of minerals in the Guymon Hugoton pool for the life of said leases. A dispute as to price, measurement and terms of taking natural gas arose as a result thereof.

22. Cities Service Gas Company, respondent herein, continued to refuse to take natural gas from said two wells unless applicant would dedicate all of its acreage in the field to Cities Service Gas Company at a price of 4¢ per thousand cubic feet at the wellhead for the life of the leases until long after the filing of this application when peerless oil and Gas Company, applicant herein, and Cities

[fol. 943] Service Gas Company, respondent herein, agreed that said wells be connected to the pipe line of Cities Service Gas Company and that Cities Service Gas Company would begin to take natural gas from said wells; that Cities Service Gas Company would begin making payment upon the purchase price of the natural gas taken by it from said wells at the rate of 4¢ per thousand cubic feet of natural gas at the wellhead plus ½¢ per thousand cubic feet for gathering and delivering charges, or a total of 4½¢ per thousand cubic feet delivered into the pipelines of Cities Service Gas Company; without prejudice to a final determination of the controversy in regard to measurement and price pending before the Corporation Commission of the State of Oklahoma in the above entitled cause, and provided that in the event the Corporation Commission of the State of Oklahoma should fix a higher price of natural gas or a different measurement and such order should be finally upheld, Cities Service Gas Company would pay to Peerless Oil and Gas Company the difference between the amount so paid and the price so fixed by the Corporation Commission of the State of Oklahoma; all as evidenced by a stipulation on file herein.

23. The persons and corporations operating pipelines and transporting natural gas out of the Guymon Hugoton Oklahoma gas field own or control a greater portion of the oil and gas leases in said field and control the outlets for natural gas produced in said field, and have therefore been able to dictate and have dictated the price, measurement and terms of the taking of natural gas taken in the Guy- [fol. 944] mon Hugoton Oklahoma gas field. Producers without a connection have been required to accept the price, measurement and terms offered by operators of pipelines in said field or shut down their wells.

24. There is no competitive market of natural gas in the Guymon Hugoton Oklahoma oil field, but said market has been stifled by reason of the control of acreage and markets by the pipeline operators in said field, and as a result natural gas is being taken out of the Guymon Hugoton Oklahoma Gas field at a price far less than its actual or fair market value, and at a price which is far less than the

value of natural gas for heating and other purposes as compared to the value of other fuels.

25. As a result of the controlled market, market prices, measurement and terms of taking of natural gas in the Guymon Hugoton Field, one of the great resources of the State of Oklahoma, to-wit: natural gas, is being taken out of the Guymon-Hugoton Oklahoma field and out of the State of Oklahoma at a price which is far less than its replacement value.

26. Various purchasers of natural gas, in the Guymon Hugoton Field, purchase natural gas from different producers and contracts providing for different prices, terms and conditions.

27. Cities Service Gas Company purchases natural gas in the Guymon-Hugoton Oklahoma gas field under contracts containing different terms and conditions as evidenced by its contract with Skelly Oil Company, its contract with Republic Natural Gas Company, and its contract [fol. 945] with Hagy, Harrington and Marsh.

28. The operations of the respondent, Cities Service Gas Company, a corporation, constitute it a transporter of natural gas.

29. The operations of respondent, Cities Service Gas Company, constitute it a common carrier.

30. The operations of the respondent, Cities Service Gas Company, constitute it a common purchaser of natural gas.

31. The operations of respondent, Cities Service Gas Company, constitute it a public utility.

32. The taking of natural gas from the Guymon Hugoton Oklahoma field at prices and under terms and measurement now prevalent in said field results in and causes:

(a) Economic waste of a great natural resource, towit: natural gas;

(b) Actual physical waste of natural gas;

(c) Loss to the royalty owners in said field;

(d) Loss to the State of Oklahoma in revenues in the form of gross production taxes.

(e) Inequitable taking of natural gas from the common source of supply involved.

(f) Discrimination against various producers in the field.

[fol. 946] 33. By reason of the dispute between the Peerless Oil and Gas Company, applicant herein, and the respondent, Cities Service Gas Company, a corporation, as to the price and terms of the taking of natural gas from said wells of applicant, this Commission has authority to fix and should fix a minimum price and terms for the taking of natural gas to be taken in the Guymon Hugoton field.

34. For the purpose of preventing waste, economic and physical, or natural gas, for the purpose of protecting correlative rights, and to insure the greatest ultimate recovery of natural gas from the common reservoir involved, this Commission should not permit natural gas to be taken out of the producing formations in the Guymon Hugoton field, at a price less than 7¢ per thousand cubic feet of natural gas measured at a pressure of 14.65 pounds absolute pressure per square inch.

[fols. 947-973] Order

It is therefore Ordered by the Corporation Commission of the State of Oklahoma as follows:

1. That no natural gas shall be taken out of the producing structures or formations in the Guymon Hugoton field in Texas County, Oklahoma, at a price, at the wellhead, of less than 7¢ per thousand cubic feet of natural gas measured at a pressure of 14.65 pounds absolute pressure per square inch.

2. This order shall be effective as of January 1st, 1947.

Done and Performed by the Corporation Commission at its office in the Capitol Office Building, Oklahoma City, Oklahoma, this 9th day of December, 1946.

Corporation Commission of Oklahoma, Reford Bond, Chairman, Ray O. Weems, Vice Chairman, Wm. J. Armstrong, Commissioner.

Attest: Tom McMurray, Secretary.

[fol. 974] EXHIBIT No. 46

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 3628

IN THE MATTER OF THE APPLICATION OF CERTAIN MINERAL Owners in Texas County, Oklahoma, for An Order Determining the Minimum Price at Which Gas Produced from the Guymon-Hugoton Field May Be First Purchased or Sold.

RESPONSE OF PANHANDLE EASTERN PIPE LINE COMPANY

Comes now Panhandle Eastern Pipe Line Company, a Delaware Corporation, hereinafter referred to as Panhandle, and shows that it is a natural-gas company within the meaning of the Natural Gas Act of 1938, as amended; that it owns and operates, under Certificates of Convenience and Necessity, a natural gas pipeline system extending from a point in the Panhandle of Texas into and through the States of Oklahoma, Kansas, Missouri, Illinois, Indiana, and Ohio, and having its terminus in Michigan; that it engages in the transportation and sale of natural gas in interstate commerce (a) for resale for domestic, commercial, industrial and other uses, and (b) directly to customers for their own use; that it is a producer of natural gas in the Guymon-Hugoton Field in Texas County, [fol. 975] Oklahoma, and also is a purchaser in Hansford County, Texas, under an existing contract, of residue gas, one of the constituents of natural gas, which is produced in the Texas County, Oklahoma, area of the Guymon-Hugoton Field, but which is transported interstate into the State of Texas for sale and delivery to Panhandle in that State.

Panhandle objects to and protests the entry of any order herein which would increase the minimum wellhead price of natural gas produced in the Guymon-Hugoton Field.

Panhandle further objects to and protests the entry of any order which would have the effect of fixing the same minimum price for residue gas sold and delivered outside the State of Oklahoma, as that fixed for gas in its natural state at the wellhead.

Panhandle respectfully shows that any such order as that mentioned above, which would effectuate the result therein set out, would be beyond and outside any statutory or constitutional jurisdiction or authority granted to the Commission and would be discriminatory, arbitrary and void, and violative of Sections 7 and 15 of Article 2 of the Constitution of Oklahoma and the Fourteenth Amendment to the Constitution of the United States, and would likewise impose a discriminatory burden and place an embargo upon interstate commerce, contrary to the provisions of [fol. 976] Section 8 of Article 1 of the Constitution of the United States, and would also be violative of the provisions of Section 10 of Article 1 of the Constitution of the United States, inasmuch as the same prohibits the impairment of contracts, and would also be violative of the Federal Natural Gas Act.

(S.) Ed. H. Lange, Rizley, Tryon & Sweet, Attorneys for Panhandle Eastern Pipe Line Company.

[fol. 977] EXHIBIT No. 47

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 3628

IN THE MATTER OF THE APPLICATION OF CERTAIN MINERAL Owners in Texas County, Oklahoma, for An Order Determining the Minimum Price at Which Gas Produced from the Guymon-Hugoton Field May Be First Purchased or Sold.

Stipulation

The following facts are stipulated by the undersigned and may be received and accepted in evidence by Commission to the same extent as if testified to by qualified witsesses, with the privilege granted to any adverse party to show any errors therein.

1. Cities Service Gas Company is a Delaware corporation duly authorized to transact business in the State of

Oklahoma as a foreign corporation. It is a natural gas company as defined by the Natural Gas Act, as amended, (15 U. S. C. A. 717) and engaged generally in the business of producing and purchasing natural gas for transportation and sale in interstate commerce for resale under the provisions of the Natural Gas Act by means of an integrated pipeline system and facilities extending from Texas into and through Oklahoma and Kansas and into Missouri and Nebraska. Attached hereto and made a part hereof, marked Exhibit "A", is a map of the complete integrated [fol. 978] pipeline system of Cities Service Gas Company as it currently exists.

2. In operating its said integrated pipeline system and facilities evidenced by said Exhibit "A" and as an integral part thereof, Cities Service Gas Company has entered into several written contracts for the purchase of natural gas as it is produced in its natural state in the Guymon-Hugoton Field in Texas County, Oklahoma. The purpose of such contracts is to augment its supply of company produced gas in the Guymon-Hugoton Field in order to enable it to adequately, efficientiy and properly supply through its integrated pipeline system its markets in Oklahoma and other states as disclosed by said Exhibit "A". The stream of gas from the point of purchase and delivery flows continuously, without interruption, from the point of purchase and delivery to the markets of Cities Service Gas Company in Oklahoma and outside of Oklahoma as disclosed on said Exhibit "A". In 1951, Cities Service Gas Company produced from its own leases and acreage in said Guymon-Hugoton Field 19,124,601 Mcf of Natural gas measured on a 14.65 pound pressure base. It purchased under its gas purchase contracts in 1951 from producers in said Guymon-Hugoton Field an aggregate amount of 38,216,799 Mcf of natural gas in its natural state measured on a 14.65 pound pressure base. Of the amount so purchased, 38,-[fol. 979] 032,643 Mcf was purchased, after production and gathering by producer, delivered to the pipe line of Cities Service Gas Company in said Guymon-Hugoton Field, the title thereto passing at the point of delivery, and 174,156 Mcf was purchased delivered at the wellhead in said field, the title thereto passing at the wellhead. It is

estimated by Cities Service Gas Company that its volumes of purchased gas from said Guymon-Hugoton Field in 1952 will be substantially the same as the purchase and delivery as outlined herein for the year 1951. In 1951, 56,030,332 Mcf or 85.21% of the natural gas produced and purchased by Cities Service Gas Company in said Guymon-Hugoton Field was transported and sold to its interstate markets and 9,724,314 Mcf or 14.79% of the natural gas produced and purchased by Cities Service Gas Company in said Guymon-Hugoton Field was sold to its Oklahoma markets. It is estimated by Cities Service Gas Company that the volume and percentage of natural gas that will be produced and purchased by it in the Guymon-Hugoton Field for the year 1952 for its markets outside the State of Oklahoma and in the State of Oklahoma will be substantially the same as outlined herein for the year 1951.

3. Since January 1, 1947, the effective date of Order 19514 of the Corporation Commission of Oklahoma fixing [fols. 980-982] the minimum price at the wellhead for gas produced in said Guymon-Hugoton Field, Cities Service Gas Company has as a result of contract negotiation increased its price for purchased gas in said Guymon-Hugoton Field, related to the wellhead, to 8.4864¢ per Mcf and royalty gas to 8.9329¢ per Mcf measured on a pressure base of 14.65 pounds and is currently paying such price. The weighted average price currently being paid in the Guymon-Hugoton Field, related to the wellhead, is *7.880043¢* per Mcf measured on a pressure base of 14.65 pounds.

Cities Service Gas Company reserves the right, notwithstanding this stipulation, to introduce and present to Commission any other competent facts or evidence it may deem material prior to the closing of the hearing by Commission in the captioned proceeding.

Dated this 9th day of July, 1952.

(S.) T. Murray Robinson, Attorney for Applicants, O. R. Stites, Joe Rolston, Attorneys for Respondents, Cities Service Gas Company.

Approved: (S.) Floyd Green, Attorney for Corporation Commission.

[fol. 983] EXHIBIT No. 48

Gas Purchase Contract

This Gas Purchase Contract made as of December 1, 1946, by and between Natural Gas Pipeline Company of America, a Delaware corporation having offices at 20 North Wacker Drive, Chicago 6, Illinois, herein called "Natural", and D. D. Harrington, Stanley Marsh, Jr., Estelle Fariss Marsh, T. J. Wagner, Jr., Ida D. Marsh, and Isabel Marsh McCormick, joined by her husband, Jas. L. McCormick, and joined herein by Stanley Marsh, Jr., Independent Executor of the Estate of Stanley Marsh, deceased, both jointly and severally, said parties comprising the partnership doing business under the firm name of Harrington & Marsh, all residents of Amarillo, Texas, all or any of whom may be addressed at Amarillo Building, Amarillo, Texas, herein called "Sellers",

Witnesseth

That in consideration of the mutual covenants hereof, the parties agree as follows, to-wit:

Article First

Situation and Purpose of Parties

1. Natural is the owner of a natural gas transportation system originating near Gray, Oklahoma, and terminating near Joliet, Illinois, with a trunk lateral line traversing northern Illinois. By means of said system it transports natural gas and sells and delivers the same for consumption in the great Chicago metropolitan area and other localities, and may make deliveries for consumption in additional areas. Its system is integrated with a natural gas transportation system owned by Texoma Natural Gas Company, herein called "Texoma", which system originates in the Panhandle gas field of Texas and connects with the origin of Natural's pipeline system. Natural receives from Texoma's transportation system all gas presently transported and sold by it. Natural and Texoma are now engaged, under authorization from Federal Power Commission heretofore issued to them, in enlarging their

respective transportation systems so that the integrated system will require on days of operation at maximum capacity an intake of approximately three hundred forty million (340,000,000) cubic feet of gas per day, measured as in Article Twelfth provided. Natural and Texoma have made application to the Federal Power Commission for a certificate of convenience and necessity permitting them to additionally enlarge such integrated system, so that same will require an intake of approximately four hundred seventy million (470,000,000) cubic feet of gas per day; and intend, if permitted by certificate satisfactory to them obtained, to construct additional facilities to obtain such additional enlargement of such integrated system. The construction of such additional facilities is herein referred to as the "proposed expansion". Natural desires to obtain from Sellers that proportion of its total system requirements of gas specified in Article Third hereof. The proposed expansion contemplates, among other things, the construction of a pipeline connecting Natural's pipeline system at its present Station 2 near Gray, Oklahoma, with the gas reserves of Sellers hereinafter referred to, and the installation at or near the intake terminal of said pipeline of a compressor station and appurtenances, herein referred to as "Station 1", for the compression of gas to be received from Sellers; all of such facilities adequate [fol. 984] for handling seventy-six million (76,000,000) cubic feet of gas per day.

2. Sellers represent that they own leasehold estates, mineral interests, lands, gas purchase contracts or other property rights covering in excess of seventy-eight thousand (78,000) acres of land in Texas County, Oklahoma, and in what is referred to by the Oklahoma Corporation Commission as the Guymon-Hugoton field, which vest in them the right to produce gas from such lands upon satisfaction of the covenants of such grants, as long as gas may be produced therefrom. Such rights, the lands covered thereby, and/or the gas deposits underlying said lands, as the sense may best indicate, are herein referred to as "gas reserves". A detailed description of the instruments creating such gas reserves and the lands covered thereby is attached hereto and marked "Exhibit A". A map showing the location of

the gas reserves in relation to the sections and townships in Texas County, Oklahoma, is attached hereto and marked "Exhibit B". Sellers desire to produce the gas underlying said gas reserves and to sell the same to Natural. They have completed a number of gas wells and propose to drill additional gas wells thereon, construct gathering lines connecting such wells to said Station 1, and install all other necessary facilities and appurtenances, and to operate the same; all for the purpose of delivering gas to Natural under the terms of this contract. They desire, and will undertake, to remove certain constituents of the gas to be delivered, after its compression by Natural at Station 1, and for that purpose intend to construct a gasoline plant and dehydration plant on the pipeline to be constructed by Natural, on the discharge side of said Station 1.

Article Second

Initial Activities

1. Natural and Texoma have made application to the Federal Power Commission for the proposed expansion, and Natural agrees to prosecute and to cause Texoma to prosecute said application with due diligence. Should they be unable to secure such certificate or be able to obtain it only with conditions not acceptable to them on or before June 1, 1947, Natural shall promptly notify Sellers, and this contract shall then terminate.

2. Sellers shall, within thirty (30) days after Natural's prompt request, exhibit to Natural such evidence of their title to their gas reserves as shall in the opinion of counsel for Natural show that they are the lawful owners thereof and of the rights therein herein described, and are in a position to dedicate such reserves to the use of this contract. Should, in the opinion of Natural's counsel, Sellers fail to exhibit such title to substantially all of the gas reserves described, Natural may at its option terminate this contract.

3. If and when Natural and Texoma shall have obtained a certificate of convenience and necessity from the Federal Power Commission for the proposed expansion within the above specified time limit, on terms satisfactory to them,

Natural shall proceed and shall cause Texoma to proceed with due diligence, the availability of materials and other uncertain factors considered, to complete the proposed expansion, and as part thereof shall complete its Station 1, and a pipeline therefrom to its Station 2. Said station shall be located within 1 mile from the center of Section 7, Township 4 North, Range 17 East, in Texas County, Oklahoma unless the parties mutually agree otherwise. Natural [fol. 985] shall so arrange its pipeline facilities that the gas may, after compression at said station, be delivered to the gasoline and dehydration plants of Sellers in Article Fifth hereof specified, and then passed through a metering station in Article Twelfth described, which metering station shall be located on the discharge side of said plants.

4. It is contemplated that some of the increment in capacity to be obtained by the proposed expansion may be available before the entire construction is completed. Upon the granting and acceptance of a certificate of public convenience and necessity upon the application above referred to, Natural shall notify Sellers thereof of the probable date of initial delivery hereunder, and at the same time shall advise them of its best estimate of the quantity of gas which it desires to then have available for delivery hereunder. Sellers shall proceed with due diligence to drill gas wells, install gathering lines, construct the gasoline and dehydration plants herein described, provide all other facilities, and do all other things and acts necessary to make available for delivery hereunder at such date of initial delivery the quantities of gas so estimated, the availability of materials and all physical and legal restrictions on production considered. As the work on the proposed expansion continues, Natural shall from time to time notify Sellers of its estimates of any additional quantities of gas required to be available hereunder, in each case at the end of one year from the date of the notice, and Sellers shall thereupon install such additional facilities and do all acts and things as may be necessary to increase the deliveries at the end of the named period by the quantity so estimated; all within the maximum daily quantity required by this contract.

Article Third

Quantities of Gas to be Delivered

1. Sellers agree to sell and deliver to Natural and Natural agrees to purchase and receive from Sellers, subject to the limitations herein expressed, such quantities of gas as shall average daily, as nearly as is practicable in good operation seventy-six million (76,000,000) cubic feet per day and, in addition, any quantities of gas used for compressor station operation as provided in Article Fourth hereof. The obligation of Natural to purchase and Sellers to deliver such quantities of gas shall commence not later than eighteen months after Natural and Texoma have obtained a certificate of convenience and necessity from the Federal Power Commission for the proposed expansion, on terms satisfactory to them, provided materials for such expansion are available to enable them to complete such construction within the eighteen months period; otherwise, as soon as the availability of materials shall permit the completion of the proposed expansion. Any variations in deliveries from said daily quantity shall be adjusted by Buyer currently and as soon as practicable. Prior to the completion of the proposed expansion, the quantities to be delivered hereunder shall be limited to the quantities which Natural may desire to take within the quantities stated in the notices provided by Article Second, Paragraph 4, hereof.

2. The obligation of Sellers to deliver Natural such quantities hereunder shall be limited to the quantity of gas which can be legally produced from the gas reserves less the quantity of gas excepted and reserved hereunder for the development and operation of Sellers' leaseholds and plants. Should any law or any rule or regulation of any state or Federal authority having jurisdiction require [fol. 986] Natural to purchase a portion of such quantities from other than Sellers in said Guymon-Hugoton field, or shall make it necessary for Natural to do so in order to obtain such quantities, the quantity of gas otherwise to be delivered by Sellers hereunder shall be reduced by the quantity of gas Natural is so required to purchase during

the time that Natural is so required. Natural may obey any such law, rule or regulation without legal contest.

Article Fourth

Delivery and Pressure

Sellers shall deliver gas hereunder into the custody of Natural and Natural shall first receive the custody of same, at the intake side of its Station 1, at a gauge pressure of not less than 150 pounds per square inch. The gas shall be compressed at said station by Natural according to the operating practice which it may from time to time follow, but not in excess of a gauge pressure of 800 pounds per square inch. Natural shall, after compression, then re-deliver said gas to Sellers' gasoline plant at an average daily temperature not in excess of 95° F. and shall use all reasonable effort to keep such gas free from compressor lubricating oil. Sellers shall be entitled to all hydrocarbons removed from the gas by such compression provided the collecting thereof be at their sole cost and risk. Sellers shall, after treatment at their gasoline and dehydration plants, re-deliver the gas into Natural's pipeline at the outlet of said plants at a temperature within 5° F. of a temperature at which the gas is received by Sellers at the inlet of said plants, provided Sellers shall not be required to reduce the temperature of such gas below 70° F. A metering station to be installed and operated by Natural as provided in Article Twelfth hereof shall be located near the outlet of said plants at which point title to the gas shall pass to Natural; except, the gas required by Natural for its compressor station operation shall be metered separately at a point at or near said station and title thereto shall pass to Natural as used. Such gas so used for compressor station operation by Natural shall be assumed and agreed for purposes of measurement and payment hereunder to have a flowing temperature in the meter of 60° F. and a total heating value of nine hundred sixty-five (965) British thermal units per cubic foot.

Article Fifth

Gasoline Plant Operation

1. Sellers reserve the right, subject to the limitations in this Article specified, to extract from the gas to be delivered hereunder nitrogen, helium, and also natural gasoline, butane, propane and other hydrocarbons other than methane, together with any methane necessarily removed from the gas in the process of recovering such other constituents; and Sellers shall remove certain constituents from the gas; all as hereinafter provided.

2. Sellers shall, prior to the first delivery of gas hereunder, construct at a proper location approximately one mile from Station 1 an absorption type gasoline plant and a dehydration plant for the recovery of constituents to be removed from the gas delivered hereunder, which plants shall be adequate for the treatment of seventy-six million (76,000,000) cubic feet of gas per day. Sellers shall at all times maintain said plants in good repair and operating efficiency, and shall restore the same or any part thereof which may be destroyed or otherwise become inefficient.

[fol. 987] 3. In the operation of said gasoline and dehydration plants, Sellers shall:

(a) Reduce the pressure of the gas between the inlet and the outlet of the plants by no more than is necessary for their efficient operation, and in no case more than fifteen (15) pounds per square inch.

(b) Conform their operations to the requirements of the efficient compression and transportation by Natural of gas delivered hereunder, to the full extent same may be accomplished without undue burden on the operation of said plants.

(c) Remove from the gas treated all hydrocarbons and water necessary to produce a dew point of the treated gas which shall not exceed a temperature of twenty-five (25) degrees Fahrenheit at a gauge pressure of not more than seven hundred eighty-five (785) pounds per square inch, in order that the formation of hydrates and/or the condensation of hydrocarbons will not occur in Natural's pipeline system.

(d) Refrain from permanently removing hydrocarbons from the gas to the extent that their removal may reduce the heating value of the gas below nine hundred fifty (950) British thermal units per cubic foot.

4. The parties agree that the proper operation of said gasoline and dehydration plants is essential to the preparation of the gas for its efficient transportation. Should Sellers fail to operate said gasoline and dehydration plants in the manner herein required, Natural may, as often as such default may occur, enter upon the premises where said plants are located, take possession of said premises, plants and all appurtenances, place and maintain the same in adequate repair and operating condition, install any equipment or additions thereto required for efficient operation, and thereafter operate the same, all according to its own judgment and discretion. In such event it may market or otherwise dispose of all products recovered as if the owner thereof according to its discretion, but shall account to Sellers for the receipts thereof, if any. Sellers shall on demand pay Natural all expenses in Natural's judgment reasonably applicable to such activities, and in addition a supervising charge of ten per cent (10%) above all such expenditures, together with interest at the rate of six per cent (6%) per annum on all amounts not paid when due; and such charges against Sellers shall be a lien on such plants, their appurtenances, and the real estate where located, and the proceeds, if any, received by Natural for the products produced, and shall be deductible against any sums payable for gas delivered hereunder. Natural may continue such operation until it has received assurance from Sellers satisfactory to it that the said plants will thereafter be operated as herein provided.

Article Sixth

Price and Payment

1. For all gas delivered hereunder Natural shall pay to Sellers an amount calculated on the following prices per

one thousand (1000) cubic feet, metered as in Article Twelfth herein provided; that is:

(a) Until the first day of July, 1951, six cents (6¢),

(b) During the five-year period commencing July 1, 1951, seven cents (7¢),

(c) Commencing July 1, 1956, and for the remaining term of this contract, eight cents (8¢).

2. During any day when the gas delivered contains on the average nine hundred sixty (960) British thermal units, or more, per cubic foot, measured as in Article Eleventh provided, the price determined as in Paragraph 1 of this Article shall be increased or decreased in direct proportion as such British thermal unit content varies [fol. 988] from nine hundred sixty-five (965) units per cubic foot; during any day when the gas delivered contains on the average less than nine hundred sixty (960) and more than nine hundred fifty (950) British thermal units per cubic foot, such price shall be reduced by ten per cent (10%); during any day when the gas delivered contains on the average nine hundred fifty (950), or less, British thermal units per cubic foot, and is accepted by Natural, such price shall be reduced by twenty per cent (20%).

3. Sellers shall pay all ad valorem taxes on their gas reserves and properties and all present gross production taxes, severance taxes and other excise taxes upon or in respect to the gas delivered hereunder up to the point of delivery of the gas to Natural. All increases in taxes due to increases in the rates of such present gross production taxes, severance taxes, and excise taxes upon or in respect of the gas delivered hereunder or the production, transportation or handling thereof up to the point of delivery of the gas to Natural shall be borne one-half by Sellers and one-half by Natural; provided, that all excise taxes upon or in respect of the manufacture or recovery of hydrocarbons by Sellers shall be borne by Sellers.

4. Natural shall render to Sellers on or before the tenth day of each month a statement showing the total quantity of gas received into the integrated pipeline system of Natural and Texoma and the quantities of gas delivered hereunder by Sellers on each day during the calendar

month next preceding, the average British thermal unit content of the gas delivered by Sellers each day of such calendar month, and shall accompany such statement with the applicable charts and such other data obtained or used by Natural for the preparation of such statement. Sellers shall within five (5) days after receipt of such statement render to Natural an invoice for the gas delivered hereunder during such calendar month and shall at the same time return to Natural all charts and data delivered to them with Natural's statement. Natural shall pay Sellers for the gas delivered during such calendar month within ten (10) days after receipt of invoice; and upon failure so to do, interest thereon shall accrue at the rate of six per cent (6%) per annum. If Natural should fail to pay any amount due hereunder, to the extent same is not in bona fide dispute, for a period of sixty (60) days after its due date, Sellers may suspend deliveries of gas hereunder until such payment is made. Any statement or invoice shall be subject to correction within one (1) year after payment made by Natural for gas delivered during any calendar month, but if claim for correction is not made within that time, such statement and invoice shall become final as to both parties.

5. Natural may at its option make payment of any sum/s due hereunder by depositing same in the First National Bank and Trust Company of Oklahoma City, Oklahoma, to the credit of Harrington & Marsh and such deposit/s shall fully acquit Natural, irrespective of ownership or any change in ownership, of the rights hereunder of Sellers or any of them; provided, however, Sellers may on authorization in manner and form acceptable to Natural direct such payment/s to be made otherwise.

Article Seventh

Obligation of Sellers to Develop Gas Reserves and Provide Facilities for Delivery

Sellers agree that pursuant to the notices outlined in Article Second hereof, and thereafter during the continuance of this contract, they will, to the full extent required by prudent operation diligently develop the gas reserves,

[fol. 989] drill gas wells thereon, install necessary gathering systems, booster stations, equipment, property and appurtenances for the gathering and delivery of gas, from time to time acidize or otherwise treat their gas wells to the extent necessary to obtain the fullest possible production therefrom, if necessary provide facilities to condition the gas produced to meet the requirements of this contract, continuously maintain their gas wells, pipelines, and all their property in good operating condition and operate the same with due diligence; all to the extent necessary to maintain at all times sufficient open flow in such wells and adequate capacity in pipelines, gasoline and dehydration plants and other properties so that Sellers will be able to deliver to Natural from said gas reserves according to the provisions of this contract, the availability of materials and all physical or legal restraints on production and sale considered, seventy-six million (76,000,000) cubic feet of gas per day; except that pending completion of the proposed expansion Sellers shall be required to maintain available for delivery no greater quantities of gas than those specified in notices given pursuant to paragraph 4 of Article Second hereof.

Article Eighth

Remedy for Failure to Make Deliveries

1. "Day" shall be taken to mean the twenty-four (24) hour period commencing at eight o'clock A. M., Central Standard Time.

2. Should Sellers from causes not excused by the provisions of Article Fifteenth hereof or attributable to the inability of Natural to receive Sellers' deliveries, fail on as many as seven (7) days (which need not be consecutive) during any thirty (30) day period to deliver the quantities of gas required to be delivered by it under the provisions of Article Third hereof, Natural may, as often as such situation occurs and without waiver from prior indulgence and without prejudice to other remedy, at its option to be exercised within ninety (90) days after such occurrence, give notice to Sellers that it elects to reduce during the remaining term of this contract the quantity otherwise required to be delivered by a stated quantity per day,

which shall not be more than the maximum quantity of the deficiency occurring during any twenty-four (24) hour period, and thereafter the quantities otherwise to be delivered hereunder shall be reduced by such quantity per day. Provided, however, should Sellers be prevented from delivering the quantities of gas required to be delivered hereunder by reason of any law in the nature of a proration or common purchaser law, or any regulation thereunder, such reduction of the quantities otherwise to be delivered hereunder by a stated quantity per day shall not exceed the daily average deficiency during said thirty (30) day period.

Article Ninth

Gas Reserves

1. Sellers agree that during the term of this contract they will do and perform all acts and things within reason which are necessary to continue in force, renew and maintain their ownership of the gas reserves and their exclusive right to produce gas therefrom. Provided that Sellers may abandon any gas leaseholds or other estates or rights covering portions of the gas reserves, where the land covered thereby in their judgment has been condemned by development, and may abandon any producing leasehold which may no longer be operated at a profit; conditions, however, that Sellers shall first in writing offer, at least [fol. 990] ninety (90) days prior to any such abandonment, to sell, convey and assign to Natural the gas rights held by them in and to the lands, together with any gas wells and appurtenant equipment thereon, the gas rights to which are proposed to be abandoned, at the salvage value of such gas wells and appurtenant equipment, if any, in place. Should Natural elect to accept said offer within thirty (30) days after receiving same, such property shall be transferred to Natural accordingly.

2. Sellers shall, for the purpose of consolidating the gas reserves into better operating position, have the right to exchange portions of the present gas reserves for other acreage of like area and productive quality situated within the area outlined and designated "Approved Area" on the map attached hereto and marked Exhibit "B". Upon

such exchange Sellers shall prepare, execute and forward to Natural in duplicate, for its execution, a suitable written instrument in recordable form, which Natural will execute and return one Copy to Sellers, which instrument by its terms shall release from the lien of dedication hereunder the dedicated acreage so exchanged and impress with the lien of dedication the substituted acreage acquired to the same extent as if originally part of the gas reserves.

3. Sellers may at their option by notice to Natural acquire and dedicate to the uses of this contract any other gas leases, gas purchase contracts, or gas rights covering lands situated within the area outlined and designated "Approval Area" on the attached map; and thereupon such additional acreage shall become subjected to all the terms of this contract.

4. The parties contemplating that the gas which may be produced from the gas reserves will be no more than sufficient to assure, after deduction of quantities thereof used for lease and gasoline plant and compressor plant operation, the deliveries of gas required under this contract, for the purpose of preserving the gas underlying said gas reserves for such deliveries, Sellers agree that they will, during the term of this contract, dedicate the gas reserves to the purpose of the contract, and will not sell or deliver gas produced from the gas reserves to any person other than Natural; except:

(a) Until Natural shall have commenced acceptance hereunder of the quantities of gas to be purchased by it as provided in Article Third hereof, Sellers, in order to keep their leaseholds in force and prevent drainage of gas from their gas reserves, shall have the right to sell and deliver gas therefrom to others than Natural.

(b) Sellers shall during any period when the production of gas from their gas reserves is subject to or limited by any law in the nature of a proration or ratable take law, or any regulation or order thereunder, have the right to sell to others than Natural any amount of gas prorated to or allowed Sellers' wells in excess of the amount of gas Sellers are currently required to deliver to Natural hereunder.

(c) Sellers also reserve the right to use all gas required for the development and operation of their leaseholds and their said plants, together with such gas reserved by lessors for domestic usage under the provisions of Sellers' leases and unitization agreements.

5. Should Sellers be unable to produce the quantities of gas required to be delivered hereunder from their gas reserves by reason of either the physical limitations of their wells located thereon or legal restrictions resulting from a proration or ratable take law, or any regulation or order thereunder, Sellers shall have the preferential right to supplement the quantities which can be physically and legally produced from their reserves by the purchase of gas from others for redelivery hereunder to the extent [fol. 991] necessary to enable Sellers at all times to deliver Natural that proportion of its total system requirements of gas specified in Article Third hereof.

6. It appearing that Natural contemplates the expenditure of large sums of money in the construction of pipelines to Sellers' gas reserves, and because of such expenditure and because the nature of its business requires assurance that the gas reserves of Sellers shall be continuously available to Natural during the entire period of this contract, the parties agree: that the provisions hereof shall be deemed covenants running with such gas reserves and the property and all interests of Sellers used or useful for the satisfaction by Sellers of the provisions of this contract to be by them performed, and shall follow the ownership of same in any hands; that Natural shall be deemed to have acquired by this contract an equitable title in the said gas reserves and property to the extent necessary to preserve and obtain said gas for the satisfaction of the obligations of Sellers under this contract; and that this contract and all its provisions shall be subject to specific performance or any other applicable remedy.

Article Tenth.

Quality of Gas.

1. The gas delivered hereunder at the metering equipment of Natural shall, subject to the standards in this contract expressed, be natural gas as produced in its natural state, except: that Sellers shall treat the gas for recoverable constituents as in Article Fifth hereof provided, and shall, if necessary, treat such gas in order to bring it within the standards of purity hereinafter in this Article expressed.

2. Said gas:

(a) shall be commercially free from solid and/or liquid matter, both at the metering equipment of Natural and at the point where it first enters the custody of Natural;

(b) shall, at the metering equipment of Natural, not contain more than one grain of hydrogen sulphide per one hundred (100) cubic feet, provided that this purity requirement shall be considered as satisfied if a strip of white filter paper, recently moistened with a solution of one hundred (100) grains of lead acetate in one hundred (100) cubic centimeters of water, be exposed to the gas for one and one half (1½) minutes in an apparatus previously purged, through which the gas is flowing at the rate of approximately five (5) cubic feet per hour, the gas not impinging from a jet upon the test paper, and after this exposure the test paper is found not distinctly darker than a second paper freshly moistened with the solution and not exposed to the gas;

(c) shall, at the metering equipment of Natural, not contain more than thirty (30) grains of total sulphur per one hundred (100) cubic feet;

(d) shall, at the metering equipment of Natural, meet the requirements of subparagraph 3(c) of Article Fifth;

(e) shall, at the metering equipment of Natural, contain at least nine hundred fifty (950) British thermal units per cubic foot, measured as in Article

Eleventh hereof provided, except as Natural may at its option accept gas of less content.

3. The sulphur and hydrogen sulphide content of the gas delivered by Sellers to Natural shall for the purposes hereof be determined by tests made or caused to be made by Natural as often as it may desire, of samples of gas taken from the gas stream from which deliveries are made, at or near the point of measurement.

4. Should such tests of the gas disclose the presence of [fol. 992] sulphur or hydrogen sulphide in excess of the amounts above specified:

(a) Sellers shall immediately discontinue deliveries hereunder from their wells known or found to produce gas which does not meet such tests, and progressively substitute for such deliveries gas from other suitable wells until a satisfactory test be obtained.

(b) If, after the procedure in the foregoing subparagraph (a) has been followed, tests of the gas continue to disclose the presence of sulphur or hydrogen sulphide in excess of the amounts in this Article permitted, Sellers shall remove all excess sulphur and hydrogen sulphide content by the installation and operation of facilities adequate for such purification.

(c) Natural may, without prejudice to any other remedy, upon advising Sellers of its intention so to do, refuse to accept further deliveries of gas from Sellers hereunder until such time as the gas at the point where samples are taken for testing shall conform to the foregoing sulphur and hydrogen sulphide content requirement.

5. Natural shall have the right to inspect and make copies of all reports and "test data" of Sellers in respect to any test made by Sellers on any of their wells. Natural shall, at its option and as often as it desires, be permitted to test any well of Sellers to determine the characteristics of the gas produced.

6. Should the gas offered for delivery by Sellers fail at any time to conform to any of the specifications in Paragraph 2 of this Article (other than subparagraph (c)

thereof), Natural may at its option, and in addition to other remedy, accept delivery of the gas and itself remove any solid matter, liquid matter, hydrogen sulphide and/or sulphur in any form in excess of the amounts specified, and Sellers shall reimburse Natural for any reasonable expense incurred by Natural in effecting such removal, or for any reasonable expense otherwise incurred by Natural by reason of the failure of the gas to conform to such specifications, all with interest at the rate of six per cent (6%) per annum, and Natural may deduct the amount of all such expense from any sums payable for gas delivered hereunder.

Article Eleventh.

British Thermal Unit Content.

1. The unit of volume for heating value determination (British thermal unit content) shall be one (1) cubic foot of dry natural gas at a temperature of sixty degrees (60°) Fahrenheit and an absolute pressure of fourteen and sixty-five hundredths (14.65) pounds per square inch.

2. The average total heating value per cubic foot of the natural gas delivered hereunder for each day shall be determined by means of a Thomas recording calorimeter to be installed at or near the point of measurement by Natural. Such determination of the average total heating value shall be made by averaging the readings recorded for each day and the average thus obtained shall be the average total heating value per cubic foot delivered during such day. The accuracy of the Thomas recording calorimeter shall be checked at least once a week by means of a proof test of pure hydrogen gas, or by means of a test of a standard sample of natural gas, or by means of a Junkers type of flow calorimeter operated according to the method of the United States Bureau of Standards, as may be selected by Natural. The Thomas recording calorimeter shall be deemed operating properly when the total heating value as recorded by it does not vary from the total heating value of pure hydrogen gas, or from the total heating value of a standard natural gas, or from the total heating value as determined by the Junkers calorime-

ter by more than five (5) British thermal units per cubic [fol. 993] foot, according to the test made. Provided that the Thomas recording calorimeter shall be immediately adjusted to register accurately should its recording show any variance from the total heating value determined by such tests. If at any time the Thomas recording calorimeter is out of service or not operating properly for any reason, determination of total heating value shall be made at least once daily by the Junkers calorimeter. Sellers shall have the right to examine the said calorimeter equipment and test records at any reasonable hour and to have a representative present at all tests and adjustments of such calorimeter equipment.

Article Twelfth.

Metering—Unit of Volume.

1. Natural shall furnish, install, operate and maintain metering stations, located as provided in Article Fourth hereof, properly equipped with orifice meters and recording gauges or such other type of meter or meters of standard make and design as may be mutually agreed upon, in such manner as to accomplish the measurement of gas delivered hereunder.

2. Sellers shall have access to said metering equipment at all reasonable times, but the reading, calibrating and adjusting thereof and the changing of charts shall be done only by the employees, agents or representatives of Natural. Charts and records from such metering equipment shall remain the property of Natural. Upon request of Sellers, Natural will submit to Sellers records and charts from such metering equipment subject to return by Sellers within ten (10) days after receipt thereof, after which return the charts and records shall be kept on file for a period of five (5) years for the mutual use of both parties. At least once each month and or a date as near the first of the month as practicable, Natural shall calibrate the said meters or cause the same to be calibrated in the presence of a representative of Sellers and the parties shall jointly observe any adjustments which are made in the meters should such adjustments be necessary. For purposes of measure-

ment and meter calibration, the atmospheric pressure shall be assumed to be thirteen and two-tenths (13.2) pounds per square inch, irrespective of variations in natural atmospheric pressure from time to time. Natural shall give to Sellers notice of the time of all tests of meters sufficiently in advance of holding the tests so that they may conveniently have their representative present. If upon any test the metering equipment is found to be inaccurate by two per cent (2%) or more, but not otherwise, registrations thereof and any payments based on such registrations shall be corrected at the rate of such inaccuracy for any period of inaccuracy which is definitely known or agreed upon, but in case the period is not definitely known or agreed upon, then for a period extending back one-half of the time elapsed since the last day of calibration, not exceeding, however, fifteen (15) days. Following any test any metering equipment found inaccurate shall immediately be adjusted to measure accurately. If for any reason any meter/s are out of service and/or out of repair so that the quantity of gas cannot be ascertained or computed from the readings thereof, the quantity of gas delivered during the period same are out of service and/or out of repair shall be estimated and agreed upon by the parties hereto upon the basis of the best data available using the first of the following methods which is feasible:

(a) By using the registration of any check measuring equipment of Sellers if installed and registering.

(b) By correcting the error if the percentage of error is ascertainable by calibration, test or mathematical calculation.

[fol. 994] (c) By estimating the quantity of deliveries by deliveries during preceding periods under similar conditions when the meter was registering accurately.

3. The unit of volume for the measurement of gas delivered under this contract shall be one (1) cubic foot of gas at a base temperature of sixty degrees Fahrenheit (60°F.) and at an absolute pressure of sixteen and four-tenths (16.4) pounds per square inch, and the readings and

registrations of the metering equipment herein provided for shall be computed in terms of such unit.

4. The temperature of the gas flowing through the meter shall be obtained by the use of a recording thermometer so installed that it will properly record such temperature. The average temperature recorded each day shall be used in computing measurements for that day.

5. The specific gravity of the gas shall be determined by Natural at or near the point of metering near the outlet of the gasoline plant at least semi-weekly, and the point of metering at the compressor station at least monthly. Natural shall advise Sellers of the time at which specific gravity tests are to be made in order that Sellers may conveniently have their representative present. The Edwards type specific gravity balance or equipment acceptable to both parties shall be used.

6. All fundamental constants, observations, records and procedures involved in determining and/or verifying the quantity and other characteristics of gas delivered hereunder shall, except as otherwise specified herein, be in accordance with such standards therefor as are or may hereafter from time to time be approved or recommended by the American Gas Association, and in the absence of such standards, then such standards as are acceptable to the parties hereto.

Article Thirteenth.

Warranty of Title.

Sellers hereby warrant title to the gas sold hereunder and the right of Sellers to sell the same and Sellers warrant that all such gas is owned by Sellers free from all liens and adverse claims, including liens to secure payment of production taxes, severance taxes and other taxes. Sellers shall at all times have the obligation to make settlements for all royalties due and payments to the mineral and royalty owners under Sellers' leases as modified by any unitization agreements and other documents as may appear of record or otherwise be binding upon Sellers, and in accordance with the terms of the respective leases and to make settlements with all other persons having any interest in the gas sold hereunder, and Sellers agree to in-

demnify Natural and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of adverse claims of any or all persons to said gas or to royalties, taxes, license fees or charges thereon which are applicable before the title to the gas passes to Natural or which may be levied and assessed upon the sale hereof to Natural. In the event any adverse claim of any character whatsoever is asserted in respect to any of said gas, Natural may retain, as security for the performance of Sellers' obligations with respect to such claim under this section, the purchase price thereof up to the amount of such claim without interest until such claim has been finally determined or until Sellers shall have furnished bond to Natural in an amount and with sureties satisfactory to Natural, conditioned for the protection of Natural with respect to such claim.

[fol. 995] Article Fourteenth.

Contract Subject to Laws and Regulations.

This contract is subject to present and future valid laws and present and future lawful orders of all regulatory bodies now or hereafter having jurisdiction over the parties; and should at any time during the term of this contract either party, by force of any such law or regulation imposed, be ordered or required to do any act inconsistent with the provisions of this contract, the contract shall, subject to the other provisions hereof, continue nevertheless, but shall then be deemed modified to conform with the requirements of such law or regulation.

Article Fifteenth.

Force Majeure Provisions.

1. In the event of either party being rendered unable, wholly or in part, by force majeure applying to its/their operations, to carry out its/their obligations under this contract other than to make payment of amounts due hereunder, it is agreed that on such party giving notice and full particulars of such force majeure in writing or by telephone to the other party as soon as possible after the

occurrence of the cause relied on, then the obligations of the party giving such notice so far as they are affected by such force majeure shall be suspended during the continuance of any inability so caused but for no longer period, and such cause shall, so far as possible, be remedied with all reasonable dispatch.

2. The term "force majeure" as employed herein shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, arrests and restraints of rulers and peoples, civil disturbances, explosions, breakage or accident to machinery or lines of pipe, the necessity for making repairs and/or alterations in machinery or lines of pipe, and any other cause whether of the kind herein enumerated or otherwise not within the control of the party claiming suspensions, all of which by the exercise of due diligence such party is unable to foresee or overcome.

Article Sixteenth.

Arbitration.

Should any dispute as to the construction of this contract or the respective rights, duties and obligations of the parties hereunder arise, the issues in dispute shall be arbitrated and determined by the person then the Senior Judge of the United States District Court for the Western District of Oklahoma, or, should he decline to act, such person/s, either one or three, as he shall, after hearing the suggestions of both parties, designate. Any arbitrator/s so appointed by the judge shall be qualified by education and training to pass on the issues in dispute; for example, if engineering questions are involved, qualified engineer/s shall be appointed, if legal questions are involved, qualified lawyer/s shall be appointed, or if the issues indicate, persons of varied training and education may be designated. Such judge or his appointees shall designate the procedure to be followed in the arbitration, which shall give both parties full opportunity to be heard. The determination by the arbitrator/s of the issues presented shall be final and conclusive, and the parties shall

thereafter abide the decision made on such issues. Costs of any such arbitration shall be borne by the parties in equal proportions.

[fol. 996] Article Seventeenth.

Option to Purchase.

Sellers and each of them agree that as often as they or one of them shall receive a bona fide offer from a third party for the purchase in their entirety of either or all of the (a) gas reserves, (b) gas wells thereon, (c) pipe lines, (d) plants, and (e) other property at the time used or useful for the performance of this contract, and any rights under this contract, which offer Seller/s desires to accept, such Seller/s shall, before disposing of such interest, notify Natural by registered mail of the full particulars and terms of such offer, including the name of the party making the offer and the sum offered. Should Natural, within fifteen (15) days after receipt of such notice, advise such Seller/s of its desire to purchase the interest for which offer has been made, a contract for the sale and transfer thereof by such Seller/s to Natural on the same terms and conditions otherwise available to such Seller/s shall result, which contract shall be promptly executed.

Article Eighteenth.

Miscellaneous Provisions.

1. Each of the parties shall be responsible for any damage or injury to third parties or their property arising from the handling of the gas delivered hereunder during the period of its or their custody and possession.

2. Any communications or notices pertaining to this contract shall be considered as duly delivered when mailed by registered mail to the post office address of either of the parties hereto, as set out in this contract, or to such other address as either party shall designate by formal written notice.

3. This contract may be assigned by either of the parties hereto to any person, firm or corporation who shall ex-

pressly assume the obligations hereof on the part of the assignor to be performed and, in the case of assignment by Sellers or one of them, who shall acquire all of the assignor's interest in gas reserves and properties of Sellers herein referred to; but it may not otherwise be assigned without the consent of the other party hereto. Whenever any party is referred to herein, such reference shall be deemed to include the successors and assigns of such party. Provided, however, that nothing herein contained shall be construed to prevent any party hereto from pledging all or any portion of such party's property as security under any mortgage, deed of trust, or other similar lien, or from pledging this contract or any benefits accruing hereunder to the party making the pledge.

4. The term "gas", wherever used herein, shall mean natural gas. The words "herein" or "hereunder" shall, whenever the sense properly permits, refer to all provisions of this contract, rather than to the provisions of any particular Article or its subdivision.

Article Nineteenth.

Term.

1. This contract shall, unless terminated before the commencement of deliveries hereunder according to the provisions of Article Second hereof, continue and remain in effect until January 1, 1965, and as long thereafter as Sellers are able to deliver gas in paying quantities under its terms and conditions; provided, however, that Natural may, on January 1, 1965, or the first day of any year thereafter, upon one (1) year's prior notice to Sellers, cancel and terminate this contract.

[fols. 997-999] 2. Should Sellers fail or be unable from any cause for a period of six (6) months to deliver to Natural at least twenty-five per cent (25%) of the volumes of gas required to be delivered by this contract, Natural may at its option give notice to Sellers of its intention to cancel this contract upon a stated subsequent date not earlier than

two (2) years from the date of such notice, and this contract shall terminate on the date so fixed.

Executed the day and year first above written.

"Natural", Natural Gas Pipeline Company of America, By Floyd C. Brown, Its President.

(Seal)

Attest: G. P. Garver, Secretary.

"Sellers", Harrington & Marsh, By (DDH) D. D. Harrington, (SM,Jr.) Stanley Marsh, Jr., (EFM) Estelle Fariss Marsh, (TJW, Jr.) T. J. Wagner, Jr., (IDM) Ida D. Marsh, (IMMcC) Isabel Marsh McCormick, (JLMcC) James L. McCormick. (SM, Jr.) Stanley Marsh, Jr., Independent Executor of the Estate of Stanley Marsh, deceased.

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[fols. 1000-1006] Exhibit "A"

Summary of Dedicated Gas Reserves
Gas Purchase Contract

between

Natural Gas Pipeline Company of America

and

Harrington & Marsh
Texas County, Oklahoma

	Acreage
Presently Developed Leaseholds	
23 Producing Gas Wells	14,720
Developed Leaseholds Under Contract	
5 Producing Gas Wells	3,200
Undeveloped Leases	60,152
Grand Total—Gas Reserves	78,072

[fol. 1007] EXHIBIT No. 49

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 3628

IN THE MATTER OF THE APPLICATION OF CERTAIN MINERAL Owners in Texas County, Oklahoma, for an Order Determining the Minimum Price at Which Gas Produced From the Guymon-Hugoton Field May Be First Purchased or Sold.

Stipulation

The following facts are stipulated by the undersigned and may be received and accepted in evidence by Commission to the same extent as if testified to by qualified witnesses, with the privilege granted to any adverse parties to show any errors therein.

1. Northern Natural Gas Company is a Delaware corporation duly licensed to transact business in the State of Oklahoma as a foreign corporation. It is a natural gas company as defined by the Natural Gas Act, as amended (15 U. S. C. A. 717) and engaged generally in the business of producing and purchasing natural gas for transportation and sale in interstate commerce for resale under the provisions of the Natural Gas Act by means of an integrated pipeline system and facilities extending from Texas into and through Oklahoma, Kansas, Nebraska and Iowa and into South Dakota and Minnesota. As of December 31, 1951 Northern Natural Gas Company owned and still owns [fol. 1008] and operates approximately 5663 miles of gathering and transmission lines in its said integrated pipeline system, of which 158.2 miles are located in Guymon-Hugoton Gas Field, or adjacent thereto, in the State of Oklahoma, of which 88.6 miles is main line and loop transmission lines and 69.6 miles is gathering line.

2. In operating its said integrated pipeline system and facilities and as an integral part thereof Northern Natural Gas Company has entered into two contracts for the purchase of natural gas as it is produced in its natural state in said Guymon-Hugoton Gas Field in Texas County, Okla-

homa, and one contract for the purchase of residue gas, a constituent of natural gas, that true and correct copies of such purchase contracts, with amendments thereto, are attached hereto, marked respectively Exhibits A, B. and C. The stream of gas from the points of purchase and delivery under the aforementioned contracts flows continuously, without interruption, from the point of purchase and delivery to the markets of Northern Natural Gas Company in states other than Oklahoma into which Northern Natural Gas Company's pipeline system extends; that during the calendar year 1951 Northern Natural Gas Company purchased 175,755,000 cubic feet of gas at the wellhead in said Guymon-Hugoton Gas Field and purchased 25,254,627,000 [fol. 1009] cubic feet of residue gas which had heretofore been produced in the Guymon-Hugoton Gas Field and certain hydrocarbon constituents removed therefrom by the seller thereof, Hugoton Plains Gas and Oil Company, prior to the delivery of such residue gas to Northern Natural Gas Company. For the calendar year 1952 Northern Natural Gas Company estimates that it will, under its purchase contracts, Exhibits A. B and C, purchase 12,758,201,000 cubic feet of Natural gas at the wellhead and 23,284,751,000 cubic feet of residue gas after the same has been processed by the seller thereof, measured at 14.65 pounds pressure base, such volume of gas amounting to approximately 14% of the total system requirements of Northern Natural Gas Company, all of which gas will be produced in the Guymon-Hugoton Gas Field; that to supply such gas or residue gas the same will be produced from approximately 350 gas wells in the Guymon-Hugoton Gas Field.

Dated this 9th day of July, 1952.

(S.) T. Murray Robinson, Attorney for Applicants, by Mark H. Adams, Attorneys for Respondents, Northern Natural Gas Company, Lawrence I. Shaw, G. E. Stahl, Mark H. Adams.

Approved: —— ——, Attorney for Corporation Commission.

"Details as to contracts attached to such stipulation are omitted herefrom by agreement of counsel."

[fol. 1010] EXHIBIT No. 50

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

Cause CD No. 3628

IN THE MATTER OF THE APPLICATION OF CERTAIN MINERAL Owners in Texas County, Oklahoma, for an Order Determining the Minimum Price at Which Gas Produced From the Guymon-Hugoton Field May Be First Purchased or Sold.

Stipulation

The following facts are stipulated by the undersigned, and may be considered as evidence as if testified to by qualified witnesses:

1. Panhandle Eastern Pipeline Company is a Delaware Corporation authorized to do business in the State of Oklahoma. It owns an integrated natural gas pipeline system extending from producing areas in the states of Texas, Oklahoma and Kansas through portions of the states of Missouri, Illinois, Indiana and Ohio, and terminating in the state of Michigan, and operates such system under certificates of public convenience and necessity issued by Federal Power Commission.

2. Panhandle produces natural gas from extensive leasehold acreage owned and operated by it and located in the states of Texas, Oklahoma and Kansas. It also purchases large volumes of gas from producers having wells located in the said states. Said produced and purchased gas is commingled and immediately transported by Panhandle [fol. 1011] out of the respective state where produced and sold by Panhandle at wholesale (a) to utilities located in the aforesaid several states for resale by the said utilities for domestic, commercial, industrial and other uses and (b) directly to industries in the said states for such industries' own use. Panhandle is a "natural-gas company," as defined in the Federal Natural Gas Act, and, under the applicable provisions of the Act, is subject to the jurisdiction of the Federal Power Commission.

3. With respect to the purchase of natural gas produced

in the Guymon-Hugoton Field of Oklahoma, Panhandle's operations had their inception with the execution of a gas purchase contract between Panhandle and Phillips Petroleum Company dated April 5, 1943. A copy of the said contract, with amendments thereto, is attached to this Stipulation as Exhibit "A", and made a part hereof. Operations under this contract have been carried on between the parties continuously since the year 1944.

4. Under the provisions of said contract, the Oklahoma-produced raw gas is gathered by Phillips through lines "D", "E", and "F" (see attached plat) (Marked Exhibit "A", attached hereto and made a part hereof) into the State of Texas. After this gas has crossed the state line into Texas and has been commingled with Texas produced [fols. 1012-1013] gas, it is compressed and processed, and the residue is then sold and delivered to Panhandle Eastern Pipeline Company by Phillips in Hansford County, Texas. Delivery is made and title to the residue gas passes to Panhandle at the point indicated by the letter "M" on the said plat, and such gas is immediately transported by it outside the State of Oklahoma for consumption in other states.

5. With respect to the production of gas by it in the Guymon-Hugoton Field, Panhandle's operations in that field had their inception in the year 1948. At the present time Panhandle owns and operates 56 producing gas wells in that field, from which it is currently taking approximately 750,000 mcf per month at 14.65 pounds. The gas that is produced from said wells is gathered by Panhandle and immediately transported by it outside the State of Oklahoma for sale and consumption in other states.

Dated this 8th day of July, 1952.

(S.) T. Murray Robinson, Attorneys for Applicant, Edw. H. Lange, Hazley, Tryon & Sweet, Attorneys for Panhandle Eastern Pipeline Company.

Approved: —— ——, Attorneys for the Corporation Commission

[fol. 1014] "Attached to the stipulation is a copy of Exhibit 33, Panhandle-Phillips Contract of April 5, 1943 and Exhibit 34, letter supplementing such contract and dated April 25, 1944. These instruments are not copied here, as they appear in the Record as other Exhibits."

EXHIBIT NO. 52

52

GUYMON-HUGOTON FIELD - GAS PRODUCED AND RUN.
DATA FROM OKLAHOMA COMMISSION MONTHLY ALLOWABLE REPORTS.
BY GATHERERS AND/OR PIPE LINE COMPANIES
14.65# P.S.I.A. PRESSURE BASE

	Cabot Carbon Co.			Cities Service Gas Co.			Northern Natural Gas Co.	
1951	No. of Wells	Total Connected Well Data Current Allowable	Runs	No. of Wells	Total Connected Well Data Current Allowable	Runs	No. of Wells	Total Connected Well Data Current Allowable	Runs
January	29	420,706 M	283,520 M	422	5,640,090 M	7,261,012 M	127	2,147,131 M	2,380,024 M
February	29	453,531	344,513	423	6,106,410	7,363,080	129	2,337,841	2,234,535
March	29	461,277	317,449	423	6,265,885	6,492,568	132	2,389,493	2,562,632
April	29	431,561	372,921	427	5,862,239	6,452,568	136	2,253,415	2,152,424
May	29	409,579	514,972	434	5,601,956	4,498,682	141	2,145,805	2,293,596
June	29	303,547	515,358	434	4,208,048	4,359,801	142	1,629,224	1,673,378
July	29	331,354	652,965	435	4,593,519	3,570,715	142	1,779,576	1,987,154
August	29	289,924	713,411	436	4,025,043	3,642,622	142	1,550,073	1,764,040
September	29	342,221	408,372	440	4,753,516	4,292,658	143	1,837,942	1,778,601
October	29	393,705	375,045	441	5,645,168	5,445,364	145	2,013,523	2,043,570
November	29	411,555	344,605	441	5,870,961	6,285,722	146	2,108,205	2,124,651
December	29	462,110	366,584	441	6,601,014	6,086,609	146	2,380,518	2,529,198
Totals - (14.65#)			5,209,715			65,751,401			25,523,805
Totals - (16.4#) (Factor 0.8933)			4,653,838 M			58,735,727 M			22,800,413 M
% of Total Gas Run			3.39%			42.83%			16.63%

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EXHIBIT "B"

1951	Pancoma Corporation No. of Wells	Total Connected Well Data Current Allowable	Runs	Phillips "B" System No. of Wells	Total Connected Well Data Current Allowable	Runs	Phillips "C" System No. of Wells	Total Connected Well Data Current Allowable	Runs
January	117	2,373,297 M	2,200,286 M	172	1,983,115	1,986,951 M	48	499,210 M	527,887 M
February	117	2,558,471	2,136,162	171	2,137,845	1,981,636	58	583,990	517,255
March	117	2,602,162	2,039,923	171	2,174,353	2,310,569	58	603,305	678,805
April	117	2,434,532	1,911,459	173	2,034,282	2,287,072	61	583,204	557,614
May	117	2,310,527	1,952,627	174	1,954,996	2,222,451	61	576,618	1,044,090
June	117	1,712,379	1,995,379	174	1,448,888	1,834,702	67	427,344	605,121
July	117	1,869,239	1,940,991	174	1,581,611	1,827,201	74	466,490	215,224
August	117	1,635,525	1,889,409	174	1,397,698	1,531,679	77	456,896	900,250
September	117	1,930,546	1,876,734	174	1,649,818	1,592,211	78	539,312	550,920
October	117	2,130,274	1,725,082	174	1,746,290	2,063,529	81	563,262	622,788
November	117	2,214,818	2,282,064	175	1,819,895	2,083,183	81	697,071	575,854
December	117	2,486,888	2,414,643	175	2,050,387	2,198,518	81	782,700	802,590
Totals - (14.65#)			24,364,759			23,919,702			7,598,398
Totals - (16.4#) (Factor 0.8933)			21,765,039 M			21,367,470 M			6,787,649 M
% of Total Gas Run			15.87%			15.58%			4.95%

1015a

EXHIBIT "B"
Page 2

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Southwestern Public Service Co.				1951 Totals		
1951	No. of Wells	Total Connected Well Data Current Allowable	Runs	No. of Wells	Current Allowable	16.4# M.C.F. Run
January	5	93,619 M	146,020 M	929	13,165,118 M *	14,785,700 M
February	5	100,924	103,031	932	14,279,012	14,680,212
March	5	102,647	103,229	935	14,599,122	15,505,175
April	5	96,035	83,965	948	13,695,268	13,818,023
May	5	91,143	64,696	961	13,090,624	12,591,114
June	5	67,648	48,605	968	9,796,978	11,032,344
July	5	73,736	57,986	976	10,695,525	10,252,236
August	5	64,516	88,694	980	9,426,675 **	10,530,105
September	5	76,154	116,329	986	11,129,509	10,615,825
October	5	93,535	123,998	992	12,585,757	12,399,376
November	5	97,247	114,709	994	13,219,752	13,810,788
December	5	109,193	105,396	994	14,872,810	14,503,538
Totals - (14.65#)			1,156,658 M			153,524,436 M
Totals - (16.4#)			1,033,243 M			151,963,607 M
% of Total Gas Run			0.75%			100%

* Should be 13,157,168 M - Evidently 7,950 M of changes were not reflected in January '51 report, 137,143,379 M. Did not change as that would upset each well's current allowable a little.

** August total Current Allowable's should be 9,419,675 M - (Same remark as above.)

1015b

EXHIBIT "B"
Page 3

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1951 GUYMON-HUGOTON FIELD
TOTAL GAS PRODUCED, CONSUMED IN OKLAHOMA, AND EXPORTED BY PRODUCERS, GATHERERS AND/OR PIPE LINE COMPANIES

NAME OF COMPANY	16.4# P.S.I.A. M.C.F. PRODUCED, PURCHASED, IMPORTED AND LOANED GAS RETURNED	16.4# P.S.I.A. M.C.F. CONSUMED IN OKLAHOMA	16.4# P.S.I.A. M.C.F. EXPORTED FROM OKLAHOMA
Cabot Carbon Company	4,653,838	4,653,838	-0-
Cities Service Gas Company	58,735,727	8,686,301 (14.79%)	50,049,426
Northern Natural Gas Company	22,800,413	647,413 X (2.84%)	22,153,000
Panoma Corporation (Prod.)	21,765,039		
Returned loaned gas	3,774,172		
SUB-TOTALS	25,539,211	362,190 XX (1.42%)	25,177,021
Phillips "B" System	21,367,470 *	-0-	21,367,470
Phillips "C" System	6,787,649 **	-0-	6,787,649
Southwestern Public Service Company			
Its production and purchases	1,033,243		
Its imported gas	115,256		
SUB-TOTALS	1,148,499	1,148,499	-0-
Totals Produced and/or Purchased	137,143,379 M		
Grand Totals - including imported gas and returned loaned gas sold	141,032,807 M	15,498,241 M	125,534,566 M
Per Cents (%'s) of Grand Totals	(100%)	(10.99%)	(89.01%)
14.65# M.C.F. equivalent	157,886,227 M	17,350,281 M	140,535,946 M
14.65# imported gas	(129,023)		

X Hugoton-Plains Gas & Oil Company's gathering system loss and use gasoline plant fuel and volume shrinkage.

XX Natural Gas Pipeline Company of America's Compressor Station Fuel, use and loss in Oklahoma.

* This Oklahoma gas is processed in the State of Texas - tail gas is sold in Texas to P.E.P.L. Co.

** This Oklahoma gas is processed in the State of Texas - tail gas is sold in Texas to Michigan-Wisconsin Pipeline Co.

RMS/m

EXHIBIT "O"

1951

TOTAL OKLAHOMA GAS TO PIPELINES SERVING MARKETS OTHER THAN THE PRODUCERS' LEASES - NOT INCLUDING CASINGHEAD GAS UNLESS SOLD FOR SUCH MARKETS.

1. Amount of total Oklahoma gas:-

(A)	Total 14.65# p.s.i.a. Gas	404,825,372 M
(B)	Total 16.4# p.s.i.a. equivalent gas	361,630,505

2. Guymon-Hugoton Field Gas only:-
Texas County, Oklahoma:-

(A)	Total 14.65# p.s.i.a. gas	153,524,436 M
(B)	Total 16.4# p.s.i.a. equivalent gas	137,143,379

3. All Oklahoma Gas, excepting Guymon-Hugoton Field:-

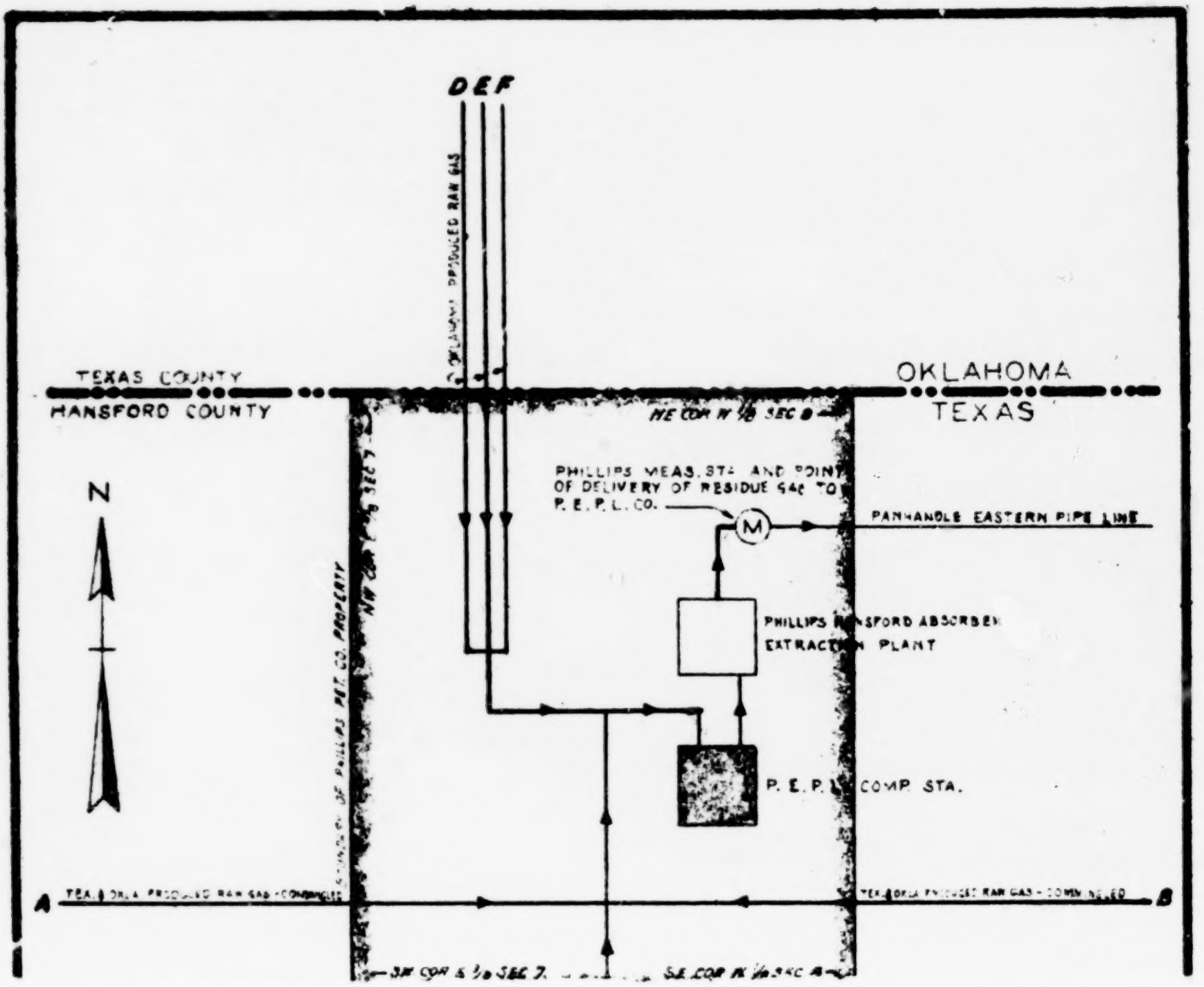
(A)	Total 14.65# p.s.i.a. gas	251,300,936 M
(B)	Total 16.4# p.s.i.a. equivalent gas	224,476,048

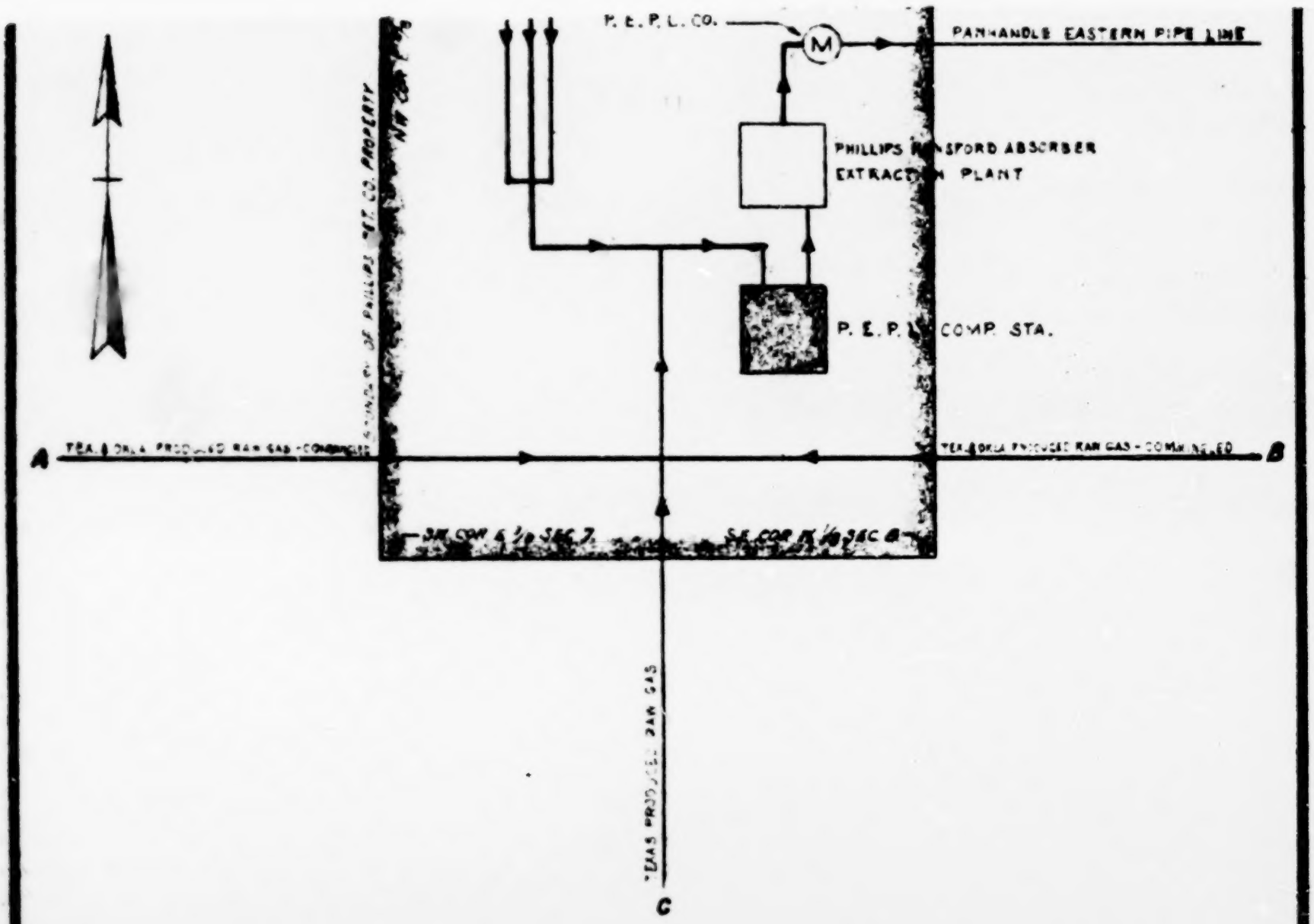
1951 OKLAHOMA GAS TO PIPE LINES.
IMPORTED & EXPORTED GAS.
BALANCE CONSUMED OR STORED IN OKLAHOMA.

1951	TOTAL OKLAHOMA GAS TO PIPE LINES. MIXED M.C.F.	TOTAL GAS IMPORTED INTO OKLA.	LESS TOTAL GAS EXPORTED FROM OKLAHOMA	BALANCE OF GAS CONSUMED OR STORED IN OKLAHOMA
Basic General Data	378,000,484	66,309,051 M	182,977,510 M	261,332,025 M
Panoma Corp.-14.65# gas loaned in former years, returned in 1951.	4,225,186	-0-	-0-	4,225.186
Totals - Mixed Pressure Base	382,225,670 M (1,047,194 M P/Day)	66,309,051 M	182,977,510 M	265,557,211 M
Less: 14.65# M.C.F. Guymon-Hugoton Field.	157,886,227 *		140,535,946	17,350,281
16.4# Gas-Balance of Oklahoma	224,339,443 M	66,309,051 M	42,441,564 M	248,206,930 M
%'s Balance of Okla. 100% =	290,648,494 M		14.60%	85.40%
%'s - All Oklahoma Gas 100% =	448,534,721 M		40.79%	59.21%
%'s - Guymon-Hugoton Field only 100% =	157,886,227 M		89.01%	10.99%

* Includes 129,029 M imported by S. W. Pub. Ser. Co.

EXHIBIT A





SCHEMATIC PLAT
SECTOR OF HANSFORD COUNTY TEXAS
(PORTIONS OF SECS. 7&8, BLK. I, P.E.S. SURVEY)
PHILLIPS PETROLEUM CO.
EXTRACTION PLANT & CONTIGUOUS AREA

Feb. 12, 1952.
DRAWING NO. 11427

SEE DRAWING NO. 6553

[fol. 1018] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 1019] SUPREME COURT OF THE UNITED STATES,
OCTOBER TERM, 1954

No. 321

NATURAL GAS PIPELINE COMPANY OF AMERICA, Appellant,

vs.

THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA, et al.

ORDER NOTING PROBABLE JURISDICTION—November 8, 1954

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

November 8, 1954.